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CANADA

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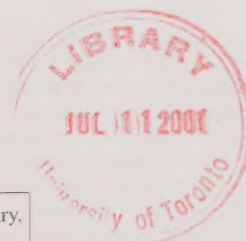
• NUMBER 42

OFFICIAL REPORT  
(HANSARD)

**Tuesday, June 5, 2001**

—  
**THE HONOURABLE DAN HAYS  
SPEAKER**

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.





## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Tuesday, June 5, 2001

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of a parliamentary delegation from Kenya. The delegation is led by the Honourable Peter Oloo Aringo, Member of the National Assembly and Deputy Speaker. They are accompanied by the Clerk and Deputy Clerk of the National Assembly. These parliamentarians are here to examine internal economy issues.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

[English]

### SENATORS' STATEMENTS

#### THE HONOURABLE DAN HAYS AND KATHY CAMPBELL

##### CONGRATULATIONS ON MARRIAGE

**Hon. Joyce Fairbairn:** Honourable senators, I trust I will not be ruled out of order today as I draw your attention to a very happy event of great interest to us all that took place in Calgary last Saturday — the marriage of our Speaker, Senator Hays, and Kathy Campbell, who has been associated with this institution even longer than her spouse and myself.

Although Kathy has three real sisters, I also regard her as an honorary one and will be forever grateful for her support and guidance as an adviser in recent years, as she also was to Senator Olson, Senator Hays, Senator Graham and Senator Boudreau.

As for Senator Hays, our friendship goes back a very long time to university years, and we entered this chamber together on the same day in 1984. His wonderful parents, the late Senator Harry Hays and Muriel Hays, are undoubtedly here in spirit today enjoying the moment.

As we all know, honourable senators, the role of our Speaker goes far beyond this chamber, and Senator Hays and Kathy Hays are a formidable team that will represent the Senate and all of us with dignity, grace and great spirit.

This is truly an occasion of celebration. I know that the senators on each side of the chamber wish you both good health and great happiness as you build a new life together.

**Hon. Senators:** Hear, hear!

### PALLIATIVE CARE

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, a year ago tomorrow, the Subcommittee to Update "Of Life and Death" tabled its final report in the Senate, which included 14 recommendations aimed at the federal government. The main recommendation in "Quality End-of-Life Care: The Right of Every Canadian" was for the federal government to take a leadership role in developing a national end-of-life strategy in collaboration with the provinces and non-governmental stakeholders.

Two and a half months ago, Prime Minister Chrétien asked me to take on the role of Minister with Special Responsibility for Palliative Care. I welcomed this opportunity to work with the Minister of Health, the Honourable Allan Rock, to ensure that the need for quality end-of-life care is given the dedicated focus it deserves and requires if we are to move forward to ensure that all Canadians will receive quality care at the end of their lives.

Earlier today, on the eve of the anniversary of the subcommittee's report, I met with representatives of the Canadian Palliative Care Association and the Coalition for Quality End-of-Life Care. The coalition, which is comprised of over 20 organizations led by the Canadian Palliative Care Association, has delivered Health Canada a blueprint for addressing the Senate's recommendations for ensuring quality care. I am sure all honourable senators will join with me in commending the CPCA and the coalition for their contributions toward initiating the development of a strategy and plan of action.

Minister Rock and I announced this morning the creation within Health Canada of a secretariat for palliative care, along with the departmental resources devoted to activities related to end-of-life care. The secretariat will be the focal point for federal work on end-of-life care and will work collaboratively across federal departments and agencies with the provinces and territories and with national organizations.

In addition to coordinating and advancing work related to end-of-life care throughout Health Canada, the secretariat will work horizontally with other federal departments and agencies on improvements to labour and income security frameworks. It will work with the Canadian Institutes of Health Research, the Canadian Institute for Health Information and the palliative care research community to further elaborate and support a palliative care research agenda. It will collaborate with provincial and territorial governments and with stakeholder organizations to facilitate such initiatives as the development and dissemination of guidelines in palliative care, training and education measures for professionals and volunteers, and the raising of public awareness.



Honourable senators, we plan to work collaboratively with the provinces and territories in their ongoing efforts to ensure quality health care services, particularly in the areas of home care and pharmaceuticals.

Across this country, in every province and territory, dedicated people and organizations are developing new ideas and initiatives to improve the care they deliver to dying individuals. Much is being done; but so much remains to be done, and we are eager to get on with it.

• (1410)

Canadians everywhere are looking forward to the day when they will be able to face the final days of their lives or those of their loved ones confident in the knowledge that they will receive quality care that meets their physical, emotional, spiritual and social needs and care that supports families and friends in their caregiving.

## CHINA

### TWELFTH ANNIVERSARY OF TIANANMEN SQUARE MASSACRE

**Hon. Consiglio Di Nino:** Honourable senators, yesterday was the twelfth anniversary of the one of the world's worst acts of barbarism — the massacre at Tiananmen Square. On June 4, 1989, Chinese authorities callously and brutally killed and maimed thousands of their fellow citizens for daring to support the idea of democracy. For 12 years, these same people have denied the events of that night. This has become what *The Globe and Mail* has rightly called "China's big lie." By refusing to acknowledge what happened at Tiananmen Square, China denies those thousands of victims the right to rest in peace. They have become non-persons in their own land, denied and disavowed by their own government.

Honourable senators, the Canadian government's approach to both this issue and the larger one of China's well-recorded and ongoing human rights abuses has been invisible. It claims to be doing its best through something called "bilateral human rights dialogue with China." However, the Canadian NGO Rights & Democracy, as well as Amnesty International, to name two such organizations, have both told the Canadian authorities that this so-called dialogue is not working and that, in effect, the human rights situation in China is deteriorating.

So the "big lie" continues. The Chinese refuse to admit to the murder of their own people. They harass, imprison, deport and oppress their critics, not to mention what they have done and continue to do in the case of Tibet and, more recently, the Falun Gong. All of this goes on while our government, with its emasculated foreign policy, watches and acquiesces.

[Translation]

## EVOLUTION OF ROLE OF WOMEN IN ARMED FORCES

**Hon. Lucie Pépin:** Honourable senators, on May 10, I had the privilege of attending the launching of the book *A la hauteur du*

*défi*. This beautiful anthology, whose English title is *Equal to the Challenge*, focuses on an important phase in the evolution of women within the Canadian Forces.

As we know, the presence of women in the Canadian Forces is the result of a long process that goes back over 100 years. From the first contingent of military nurses during the Northwest Rebellion, in 1885, to the numerous peacekeeping missions, and not forgetting the two world wars, Canadian service women gradually found their place in an environment that had traditionally been a man's world.

This book relates the experiences of about fifty different women during World War II. It is a story of courage, bravery, challenge, suffering and learning. Replete with personal anecdotes, this work pays a well-deserved tribute to the thousands of service women and civilians who contributed to Canada's participation in the war effort, only to be forgotten afterward.

This book allows us to appreciate the remarkable contribution of these thousands of women. They made their mark within the Armed Forces or in factory or farm work. Their contributions were what allowed various sectors of the Canadian economy to continue operating. By the war's end in 1945, there were close to 750,000 women working in the Canadian war effort and another 760,000 in agriculture.

There could never be too much attention focused on Canadian women's participation in the war effort during World War II. Their presence at that time did much to altering the common stereotype that women's work was confined to domestic duties.

Honourable senators, I must express my fullest gratitude to the women who agreed to share their experiences with us in this work. This is a first, and through it we realize that there are also women war veterans who deserve recognition at the November 11 ceremonies each year.

Nowadays, women can enlist in any and all occupational groups and any corps of the Canadian Forces, with the exception of the Roman Catholic chaplaincy. At present, they constitute over 12 per cent of the military and a number of them are involved at the decision-making level, as Deputy Ministers or senior officers. Who knows, perhaps it will not be long until we see a woman Chief of Defence Staff.

[English]

## THE LATE MARGARET ROMPKEY

### TRIBUTE

**Hon. Joan Cook:** Honourable senators, yesterday, June 4, friends of Margaret Rompkey, together with her sons, Dr. Ron and Senator Bill, Bill's wife, Carolyn, and his children, Peter and Hilary, and son-in-law, Joel, gathered at the Anglican Cathedral in St. John's to give thanks for and to celebrate Margaret's life of 87 years. Mrs. Rompkey passed away quietly on Friday of last week.



Honourable senators, Margaret Lillian Edith Fudge was born at Balena, a whaling station on Newfoundland's south coast, moving later with her family to McCallum and then to Belleoram where she met and married William Rompkey. In 1938, the family moved to St. John's.

In paying tribute to his mother yesterday, Senator Rompkey said it best, that his mother was a hospitable woman, sharing their home with outport families and friends, and that their lives revolved around two buildings, namely Bishop Field College and the Anglican Cathedral. Margaret was an accomplished pianist and delighted in sharing that gift, especially in those latter years with her friends at Bishop Meadon Manor. Simply put, he said, "My mother was a woman of faith."

Margaret Rompkey was a woman of quiet strength and purpose. After the death of her husband some years ago, she returned to work at Memorial University Library until her retirement.

My memory of her is that of a very gracious and gentle woman, proud of the achievements of her family and blessed with a wide circle of friends. That was evident yesterday in a cathedral filled to capacity. Margaret Lillian Edith Rompkey was the very essence of what it is to be a lady. May she rest in peace.

#### DAY OF MEMORY FOR RAOUL WALLENBERG

**Hon. Lois M. Wilson:** Honourable senators, today, over noon hour, a gathering was held here on Parliament Hill to celebrate the announcement of Raoul Wallenberg Day on every succeeding January 17 in Canada. As senators may know, he was a Swedish diplomat who, in World War II, rescued thousands of Jews who otherwise would have been murdered during the Holocaust.

A number of the survivors who owe their lives to this courageous man were present today. Wallenberg is the only person who has been declared an honorary citizen of Canada for his splendid work on human rights. The people who had been instrumental over the years in bringing about this significant event today were also honoured: Minister of Canadian Heritage Sheila Copps, MPs Irwin Cotler and Clifford Lincoln, Senator Sheila Finestone and Dr. Vera Parnes, President of Canadian Friends of Raoul Wallenberg. Plans are being formulated to include the history of this extraordinary man's life in school curricula across the country.

Honourable senators, I was proud to be present at such a moving, historic event. I was thrilled that our colleagues have seen their hopes fulfilled and their faithful efforts realized.

**Hon. Sheila Finestone:** Honourable senators, today I had the distinct privilege and pleasure to assist at the launching of a day of memory for Raoul Wallenberg, as my colleague Senator Wilson just outlined. This is a heartening moment for me and for

Reverend de Cornille, who initially brought this issue to the other place in 1985. The justice of this outstanding token of remembrance found expression through the understanding of Minister Sheila Copps.

Minister of Canadian Heritage Sheila Copps, along with Dr. Vera Parnes, who was the motivating force behind this undertaking, Clifford Lincoln and Irwin Cotler were present for the announcement and declaration that January 17 of each year will be known as Raoul Wallenberg Day.

Honourable senators, is there anything greater one can do than to save the life of another? Perhaps one thing greater than saving a life is saving several lives. Raoul Wallenberg saved thousands of lives. At great risk to his own life, he snatched approximately 100,000 Hungarian Jews from the waiting jaws of death during the Second World War, at times almost literally.

Leaving behind a prosperous business career in Stockholm, Mr. Wallenberg accepted an assignment as First Secretary of the Swedish Diplomatic Mission in Budapest in 1944. He took it upon himself to do everything in his power to rescue the remaining Jews in Hungary. He founded safe homes to house those in danger. He delivered special passports of protection to 10,000 people in order to guarantee their security. When Hungarian Jews were being transported to Auschwitz, this compassionate and courageous man, who could have just been interested in saving himself, climbed onto those trains and passed out official documents.

• (1420)

He then demanded that all passengers with Swedish papers be permitted to debark and return with him to Budapest. When all those left in the Budapest Jewish ghetto were about to be massacred, Raoul Wallenberg convinced the general in charge to call off the attack.

On January 17, 1945, Wallenberg was arrested — for what we do not know — and taken prisoner by Soviet authorities. Of his subsequent fate we have only rumours. It could not have been kind.

[Translation]

Honourable senators, Raoul Wallenberg is a hero, and this is why Canada made him an honorary citizen in 1985, its only honorary citizen.

A number of other countries in the world recognize him and have also made him an honorary citizen. UNESCO also recognized him in connection with the year 2000, which was proclaimed International Year for the Culture of Peace, and praised him eloquently as the greatest defender of human rights of all times.



[English]

Canada has been in the avant-garde, naming this man honorary citizen in 1985 and today naming Raoul Wallenberg Day every January 17, at which time the children of this land will be given information and learn about a great man of courage, about human rights, and about how one man stood up for those kinds of rights. He became a champion and did so without a single act of aggression.

[Translation]

## ROUTINE PROCEEDINGS

### BROADCASTING ACT

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Lise Bacon**, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Tuesday, June 5, 2001

The Standing Senate Committee on Transport and Communications has the honour to present its

#### FOURTH REPORT

Your Committee, to which was referred Bill S-7, An Act to amend the Broadcasting Act, has, in obedience to the Order of Reference of Wednesday, February 7, 2001, examined the said Bill and now reports the same without amendment, but with observations which are appended to this report.

Respectfully submitted,

LISE BACON  
Chair

(For text of observations, see today's Journals of the Senate, p. 631.)

**The Hon. the Speaker:** When shall this bill be read the third time?

On motion of Senator Finestone, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

### ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding Rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 6, 2001, at 1:30 p.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

## CANADA-CHINA LEGISLATIVE ASSOCIATION

THIRD BILATERAL MEETING, MARCH 2001—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Jack Austin:** Honourable senators, I have the honour to table, in both official languages, the fifth report of the Canada-China Legislative Association regarding the third bilateral meeting held in China in March 2001.

[Translation]

## CANADIAN NATO PARLIAMENTARY ASSOCIATION

MEETING OF STANDING COMMITTEE AND SECRETARIES OF  
NATIONAL DELEGATIONS, MARCH 30-APRIL 1, 2001—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table the third report of the Canadian NATO Parliamentary Association. This is the report by the official delegation, which represented Canada at the meeting of the Standing Committee and the Secretaries of National Delegations of the North Atlantic Assembly (NATO Parliamentarians) held in Rome, Italy, on March 30 and April 1, 2001.

[English]

## NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET  
DURING SITTING OF THE SENATE

**Hon. Lowell Murray:** Honourable senators, I give notice that on Wednesday next, June 6, 2001, I will move:

That the Standing Senate Committee on National Finance have power to sit Thursday, June 7, 2001 at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[ Senator Finestone ]

## AFGHANISTAN

### DECREE REQUIRING NON-MUSLIMS TO WEAR SPECIAL IDENTIFICATION—NOTICE OF INQUIRY

**Hon. Sheila Finestone:** Honourable senators, I give notice that on Thursday next, June 7, 2001, I will call the attention of the Senate to the Islamic Emirate of Afghanistan's May 22 decree that would force non-Muslims in that country to wear special identification on their clothing. I believe it is important that this distinguished chamber not remain silent on this question but go on record expressing our collective displeasure with that nation's flirtation with policies that set the stage for events that proved horrific in recent human history. Let us learn from our mistakes. Let us not repeat them.

## QUESTION PERIOD

### THE SENATE

#### ANNOUNCEMENT OF MEETING OF COMMITTEE OF THE WHOLE ON MARITIME HELICOPTER PROJECT

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I realize that this is irregular, but I want to answer a question that I took under advisement when we last met.

I met with the leadership on the other side yesterday, and it was mutually agreed that a meeting of the Committee of the Whole to examine the Maritime Helicopter Project will be held soon after our return in September, the exact date to be worked out in consultation with the other side.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I should like to give an answer to the leader. Thank you.

### NATIONAL DEFENCE

#### ANNUAL REPORT OF OFFICE OF THE OMBUDSMAN

**Hon. Norman K. Atkins:** Honourable senators, my question is directed to the Leader of the Government in the Senate and concerns the annual report of the Ombudsman for the Department of National Defence and the Canadian Forces. First, I congratulate the government for extending Mr. André Marin's term of office for five more years. Having said that, this report raises certain questions about the cooperation his office receives from DND. He indicates in his report the continued need for the Chief of Defence Staff and the deputy minister to support the functions of the ombudsman. Could the leader tell the Senate what specific measures the government is taking to impress upon

DND and the Canadian Forces members the need for support and cooperation with the office of the ombudsman?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator asks a question of great importance to the public as a whole and I believe also to the military. Clearly, the government strongly supports the office of the ombudsman and is convinced that the present occupant is well worthy of having his reappointment announced because he has begun to build an atmosphere of trust and confidence.

• (1430)

Having said that, the government is looking carefully at the ombudsman's annual report, particularly the concerns he has raised and the recommendations he has made with respect to his ongoing responsibilities.

**Senator Atkins:** Honourable senators, what steps does the Leader think the government would be taking to amend the National Defence Act so that the directives that outline the office of the ombudsman are actually turned into regulations under the act to give the ombudsman clout? It is indicated now that while he can investigate a number of the inquiries and complaints, he does not have the authority really to enforce or come to any conclusions that would be supported by the establishment in the military.

**Senator Carstairs:** Honourable senators, the senator asks what amendments will be made to the Defence Act. Clearly, we will know in due time if there are to be any amendments. However, in his report the ombudsman indicated that most cases are being handled satisfactorily and that he would like to have an even better relationship with the military. I think that takes time to develop. That is why I am delighted he has been reappointed so he can build on the accomplishments he has achieved to date.

### THE SENATE

#### MEETING OF COMMITTEE OF THE WHOLE ON MARITIME HELICOPTER PROJECT

**Hon. J. Michael Forrestall:** Honourable senators, I have a supplementary question to that posed by the Leader of the Opposition in the Senate. I join him in expressing appreciation for the quick reaction to his suggestion about bringing some suitable witnesses before us.

Would the minister entertain some suggestions as to individuals from the military that we might hear from?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I would think that would be a logical follow-up to the announcement that there would be a Committee of the Whole and the subsequent deliberations as to when that day is to take place. A suitable witness list will also be determined.



## NATIONAL DEFENCE

### REPLACEMENT OF SEA KING HELICOPTERS—RISK ANALYSIS PRIOR TO SPLITTING PROCUREMENT PROCESS

**Hon. J. Michael Forrestall:** Honourable senators, assuming that that generous offer does not preclude questions that arise from the concerns some of us have about the selection of an adequate vehicle to replace the Sea King through a fair and open competition, might I ask the following question: On April 24, the Leader of the Government will recall tabling a written response to a question raised in this chamber by myself on March 29. The written response states that a thorough risk analysis of the Maritime Helicopter Project was in fact completed. Last week, we saw the document of contingency costs, which included an additional \$180 million due to the lost economies of scale of a two-competition approach, and \$220 million for the risk, for a total of \$400 million. The written response, tabled April 24, also states that the government's goal is to get the Maritime helicopter at the lowest possible cost to the taxpayers.

How does the minister explain this contradiction between her written response to my question tabled in the Senate and the government's own contingency costs document?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I will make it clear to all honourable senators that they are not my written responses. The responses members receive to the questions they ask come from the departments. They do not come from me. I clearly receive them and then I make sure that the deputy leader brings them before this chamber, but I certainly do not author them.

Honourable senators, I do not see that there is any inconsistency with the answer that Senator Forrestall received to his March question on April 24. The government is still desirous of getting the best equipment at the best possible cost.

**Senator Forrestall:** Honourable senators, it is now easily demonstrated that the costs of this delay and the costs of the government changing its plans have risen to somewhere slightly in excess of \$1 billion, not the \$400 million we were talking about 10 days ago. It is quite clear that the cost is over \$1 billion, a figure that I cited at the time of the cancellation of the program.

I know the Leader of the Government does not write these responses. I know that she gives them and, believe me, there have been days in this chamber when I wish she could have emulated her predecessor, and his predecessor and many other leaders of the government, and said, "Hell of a good question. Damned if I know the answer. I will see if I can get one for you." That might have relieved some of the stress on the part of those of us who are concerned about the lives of men and women who must serve in this somewhat aged equipment.

Against that background, will the Leader of the Government tell us — and if she cannot that is understandable, but if she

could find out that would be appreciated — when she was told that a risk analysis had in fact been completed by the government on the split procurement and the associated contingency costs?

**Senator Carstairs:** Honourable senators, the honourable senator has made some statements and then asked a very specific question. As to his very specific question, I will try to find out the answer for him.

As to why I answer questions the way I do, I should like the honourable senator to know that we have, as of this week, replied to 95 questions via delayed answers since we began this process in late January. A great number of written responses have been going across the floor in this chamber on a regular basis.

As to whether it can be easily demonstrated that the increased price has gone up by \$1 billion, I do not think it can be as easily demonstrated as the honourable senator seems to think.

**Senator Forrestall:** Want to bet?

### REPLACEMENT OF SEA KING HELICOPTERS—SEA STATE OPERATION AND DITCHING REQUIREMENTS

**Hon. Terry Stratton:** Honourable senators, I, too, would like to thank the minister for arranging the discussion that we shall have. That is very much appreciated from this side. I should like to add fodder to the cannon, as it were, because I am sure she will not be able to answer some of my questions. They are somewhat technical and neither she nor I are helicopter experts.

The August statement of requirement plans for the new helicopter refers to operating in sea state conditions of up to six. I must ask what "sea state conditions of up to six" means? I believe ten is a hurricane and nine is a storm. It specifies that a helicopter can operate in sea state conditions of six, but specifies ditching only up to a sea state of three. I did not know what a sea state of three was, and when I asked I found out it is when there are whitecaps. A helicopter can operate in sea state conditions of six, but it cannot be ditched in sea state conditions of six because it will go down right away. One can only be ditched up to a sea state of three.

I am not expecting an immediate response, but I should like the Leader of the Government to obtain the answer. Why is it that these helicopters can operate at a sea state of six and can only be ditched in a sea state of three?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for his outline of the definitions of sea state six and sea state three. He has now acquired more knowledge than I have. I will attempt to get the answer as quickly as possible for the honourable senator.

**Senator Stratton:** Honourable senators, as well as asking that question about sea states, we need to know why that minimum is so low.

• (1440)

If you are able to operate at a sea state of six, why can you not ditch at a sea state of six? I would be hopeful that you would reach that conclusion.

**Senator Carstairs:** Honourable senators, I spent a couple of hours watching a vigorous storm on Lake Winnipeg a few weeks ago where there were sea caps. The lake is not even a sea of extremely high levels. My impression would have to be that, clearly, one would not want to ditch because one might lose the equipment and, more important, the lives of the individuals onboard that helicopter. I am certain that there is a much more professional explanation, and I will attempt to obtain that for the honourable senator.

## THE ENVIRONMENT

### UNITED STATES—PRESIDENT'S ENERGY PLAN—RESPECT AND ENFORCEMENT OF CLEAN AIR TREATY

**Hon. Mira Spivak:** Honourable senators, the clean air treaty signed in December 2000 requires power plants and other industrial sources to cut their nitrogen oxide emissions by 50 per cent to 70 per cent by 2004. The treaty does not address issues about increasing the number of power plants.

President Bush's energy plan calls for the creation of 1,300 new power plants and would grant waivers over environmental standards to states that run older power plants at peak capacity. Bush's energy plan would render the clean air treaty, signed by both of our countries in December 2000, ineffective.

Does the Leader of the Government in the Senate know how the government proposes to ensure that the requirements of the clean air treaty are respected and enforced?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator knows that the clean air treaty has been signed by both governments. One hopes, of course, that the intent and, in fact, the sections of that treaty will be mutually respected. Obviously, it is of concern when the President of the United States indicates that he seems to be acting at variance. I say "seems to be acting at variance" because we have not done the analysis to date that would indicate whether that is the case.

However, I can assure the honourable senator that in ongoing discussions with the United States, led by Minister of the Environment David Anderson, that Minister Anderson will be conscious of the questions that the honourable senator has raised today.

### ALTERNATIVE FUEL PLANS—TAX RELIEF INITIATIVES

**Hon. Mira Spivak:** Honourable senators, one of the good things about President Bush's recent energy plan is that it calls for tax relief to consumers who purchase energy-efficient vehicles and who purchase solar panels for their homes. As

senators may recall, the Clean Air Coalition, which includes industrialists, oil companies and environmentalists, asked for a certain tax credit to provide some relief.

Honourable senators, does the government have plans to implement similar incentives to encourage energy conservation in Canada? I am aware of some announcements about energy conservation, but I am not certain how they will apply. I would appreciate obtaining that information from the honourable senator.

**Hon. Sharon Carstairs (Leader of the Government):** The honourable senator raises a question that I know is of interest particularly to Senator Kenny, who, of course, introduced a private member's bill concerning alternative fuels. It was one of the few bills that managed to move through both Houses. The government has been actively encouraging the use of more environmentally responsible vehicles. Thus, its plans are well underway.

As to whether there will be specific tax relief initiatives, we will have to wait for future budgets.

## AGRICULTURE AND AGRI-FOOD

### DOWNTURN IN GRAIN SEED AND OILSEED SECTORS—EFFECT OF INPUT COSTS

**Hon. Leonard J. Gustafson:** Honourable senators, I, as a visitor, attended a meeting this morning of the House of Commons Standing Committee on Agriculture and Agri-Food. In attendance were three provincial Ministers of Agriculture from Alberta, Saskatchewan and Manitoba, who testified to the House of Commons committee, along with their opposition leaders in the same field.

In many ways, there was not much new information on grains and oilseeds and the problems that exist in that sector. However, one comment was emphasized by all three ministers: This is now a serious national, Canadian problem, not just a serious problem for the provinces.

Honourable senators, will there be an industry in grains and oilseeds on a level playing field? All the ministers said the same thing: We can compete, but there is not a level playing field. We now face a global economy with respect to agriculture. Will the government seriously examine this national issue? Our agricultural industry must be protected for all Canadians.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator asks, of course, a question that is critical for all Canadians, particularly for those who live on the Prairies. There is no question that the grain and oilseed industry is in serious difficulty. I repeat the honourable senator's statement, which is not due to their inability to grow the grains and not due to their lack of understanding of international pressures. They have the appropriate knowledge and expertise. They are able to compete. Unfortunately, they are currently caught in a difficult situation.



Honourable senators, announcements were made last week by the government concerning its commitment to rural communities. I make note of the transfers that have occurred in respect of the grain roads in Saskatchewan, Manitoba and Alberta. The three provinces received announcements recently of new monies that would help to ensure the protection of the infrastructure of rural communities.

In addition, I should like to answer a question the honourable senator asked the other day: Why have the cheques not been received with respect to the \$500 million in farm aid to the provinces? Those cheques have been written to the provinces, at their request, and they have received those cheques. It is now up to the provinces to ensure that the farmers receive the money, which is now in the hands of the provincial treasurers.

In response to the honourable senator's questions about whether we need to do more and whether we need to recognize this as a serious national problem, the answer is that, absolutely, we need to do more.

**Senator Gustafson:** When talking to some Manitoba farmers today, I learned that some of them received the cheques yesterday. The cheques ranged from a minimum of \$3,500 to a maximum of \$7,500. When a farmer's income is only \$7,000 for a family to live on, including off-farm income, that is not much money. However, this money certainly helps and we are thankful for it.

The three ministers raised the question of input costs. Regardless of how much money the government may put in the farmers' hands, they still must face fertilizer prices that have been on the increase, the cost of natural gas that has risen as much as 100 per cent and fuel costs that are up about 35 per cent.

Honourable senators, there is a clear indication that the big oil companies are not suffering too much. They are expressing the fact that they are reaping profits that they did not reap before. As long as a farmer's earnings end up in input costs, there is no solution.

However, the government must bring solutions forward with regard to these input costs. Most of the farmers I talk to would be pleased if they could recuperate the money that they spent on input costs this year. Will the government examine the specifics, such as fuel costs, and possibly some new regulations? We do not like the word "regulations," but they may be necessary. Will the government examine those areas?

• (1450)

**Senator Carstairs:** Honourable senators, that is an interesting suggestion, which I will certainly relay. Since I was not there, I must ask if the question was actually put to the Ministers of Agriculture of the three Prairie provinces, all of which receive richer royalties from their natural gas than the federal

government, are prepared to give back some of those royalties to the farmers.

#### INTEREST-FREE GOVERNMENT LOAN TO PURCHASE SEED, FERTILIZER AND SPRAYING MATERIAL

**Hon. Jim Tunney:** Honourable senators, my concern is equal to that of any farmer in any of the Prairie provinces, even though I am an eastern farmer-producer who does not have the same real concerns as those in the West.

I have a particular concern and it is this precisely: The government has decided in its wisdom to advance \$50,000 per farmer for the purchase of seed, fertilizer and spray material as an interest-free loan. My concern is that that interest-free loan must be repaid by December of 2001. When the crop revenue will not cover the input costs, where will the farmer find the funds to repay that loan?

An alternative, in my estimation, might be to not put the crop in the ground, and the farmer would be better off. It is a horrible situation. Farmers are living off their equity. The Farm Debt Review Board will be busier than ever before.

I would ask the minister, in her discussions with cabinet, to relate some of the concerns that emanate from this body.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Senator Tunney has put some very interesting information before the chamber this afternoon. I assure him that I will take that information to the Minister of Agriculture and my other cabinet colleagues.

[Translation]

#### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this chamber the delayed answers to three questions: the questions of Senator Forrestall of May 8 and 15, 2001, and the question of Senator Kinsella of May 9, 2001 concerning the replacement of the Sea King helicopters.

#### NATIONAL DEFENCE

##### REPLACEMENT OF SEA KING HELICOPTERS—SPLITTING OF PROCUREMENT PROCESS

(Response to question raised by Hon. J. Michael Forrestall on May 8, 2001)

The Government's Maritime Helicopter procurement strategy was not designed to favour any particular competitor. It is based on a fair, open and transparent competitive process.

The company that wins the mission systems/systems integrator contract will be responsible for the delivery of the Maritime Helicopter to the Government of Canada. This means the mission system integrator is in effect the prime contractor for the final helicopter.

REPLACEMENT OF SEA KING HELICOPTERS—  
ORDER TO PROCEED WITH PROJECT

*(Response to question raised by Hon. J. Michael Forrestall on May 15, 2001)*

The company that wins the mission systems/systems integrator contract will be responsible for the delivery of the Maritime Helicopter to the Government of Canada. This means the mission system integrator is in effect the prime contractor for the final helicopter.

HELICOPTER ACQUISITION PROJECTS—  
RETENTION OF LEGAL COUNSEL

*(Response to question raised by Hon. Noël A. Kinsella on May 9, 2001)*

The Maritime Helicopter Project and the Search and Rescue Helicopter Project are two separate procurements. There were legal issues that arose in the Search and Rescue Project that were unique to that project that have not arisen in the Maritime Helicopter Project.

## RESPONSE TO ORDER PAPER QUESTION TABLED

SOLICITOR GENERAL—DIFFERENCE IN  
WORKING CONDITIONS BETWEEN CORRECTIONAL  
OFFICERS AND RCMP

**Hon. Fernand Robichaud (Deputy Leader of the Government):** tabled the answer to Question No. 11 on the *Order Paper*—by Senator Lynch-Staunton.

*[English]*

## ORDERS OF THE DAY

### KANESATAKE INTERIM LAND BASE GOVERNANCE BILL

MESSAGE FROM COMMONS

**The Hon. the Speaker:** informed the Senate that a message had been received from the House of Commons returning Bill S-24, to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and

to amend an Act in consequence, and acquainting the Senate that they have passed this bill without amendment.

### CONFERENCE OF MENNONITES IN CANADA

PRIVATE BILL TO AMEND ACT OF INCORPORATION—MESSAGE  
FROM COMMONS

**The Hon. the Speaker:** informed the Senate that a message had been received from the House of Commons returning Bill S-25, to amend the Act of incorporation of the Conference of Mennonites in Canada, and acquainting the Senate that they have passed this bill without amendment.

*[Translation]*

### FINANCIAL CONSUMER AGENCY OF CANADA BILL

THIRD READING—DEBATE ADJOURNED

**Hon. Céline Hervieux-Payette:** moved the third reading of Bill C-8, to establish the Financial Consumer Agency of Canada, and to amend certain acts in relation to financial institutions.

She said: Honourable senators, since we have been working on this bill for some years, I wish to take this opportunity to give an overview.

I would call the attention of honourable senators to the four fundamental principles that underpin the legislation and which guided the government's decision making on the specific measures in this bill.

The first is that financial institutions must have the flexibility to adapt to the changing marketplace and to compete and thrive, both at home and abroad.

Upholding this principle is necessary if the financial sector is to maintain its contribution to economic growth and job creation in a sector employing more than 50,000 people.

To this end, the bill provides additional flexibility for banks and insurance companies to organize themselves under a new holding company option that would be available to them, thus permitting them to explore opportunities to improve efficiency

Similarly, the limits on widely held ownership of financial institutions are being raised from 10 per cent of voting shares to 20 per cent, and to 30 per cent for non-voting shares. This will permit the exchange of considerable shares required for the conclusion of strategic alliances and joint ventures.

The bill substantially expands permitted investments financial institutions can make through the holding company and the parent subsidiary structures.

The financial institutions will thus be able to choose the structure they prefer to best suit their strategic policies. The new framework of this bill provides as well for a transparent process for examining proposed amalgamations of major banks.



The second principle guiding the bill stresses the importance of competition, since competition is necessary to allow consumers and businesses alike to benefit from a wide range of choice at the best possible price.

With this objective in mind, the minimum amount of capital required to start a bank is being lowered to \$5 million from \$10 million in order to encourage bank start-ups.

The bill also proposes a new three-tiered ownership regime that is size based and allows for the first time on a permanent basis single ownership of small banks with equity of less than \$1 billion.

Banks with equity of \$1 billion to \$5 billion will also have the choice of being widely held, provided at least 35 per cent of shares are widely distributed among the public.

These measures should encourage new companies to enter the banking sector and lead to the emergence of small local institutions aimed at serving a given community.

Furthermore, commercial enterprises would also be allowed to establish new banks. This may be potentially attractive to retail companies that already have a network of stores or outlets.

Finally, large banks with more than \$5 billion in equity would continue to be widely held, and the prohibition against a single shareholder or a group of shareholders exercising control over a major financial institution would continue, more particularly through the establishment of specific standards in this regard.

This bill also includes measures to strengthen credit unions. These community financial institutions play an important role in all the provinces. They are often the only financial institution in a town or village. However, credit unions outside Quebec must face a number of challenges. They cannot serve their members in the other provinces and they feel that there is a lot of duplication in their support activities, a situation which increases their costs. Moreover, it is very difficult for them to coordinate and implement national joint services such as the issuance of a credit card from the credit union.

The bill includes measures that should allow credit unions to restructure so as to reduce the structural fragmentation and increase their efficiency so that they can be stronger, more competitive and better placed to face the competition from other financial service providers across the land.

From now on, the Canadian payments system will be accessible to life insurance companies, securities dealers and money market mutual funds.

Broadening the range of participants in the payments system will foster competition, because these firms will be able to offer services akin to chequing accounts, thus helping better serve Canadians.

• (1500)

Moreover, we will implement measures to align access rules for foreign banks in Canada with those governing domestic banks, so as to provide greater flexibility to foreign banks that wish to settle in Canada. Foreign banks that provide financial services in Canada will be allowed to have the same types of investment as Canadian banks, including the possibility of having more than one bank. The regulatory authorization system was streamlined for foreign banks, along with the amendments made for Canadian banks. These measures seek a simple objective, which is to foster a sound involvement on the part of foreign banks in Canada and to promote competition in our financial services sector.

Together, these measures will promote greater competition in the financial services sector and Canadians will thus benefit from the best possible offer on the part of suppliers of financial services.

However, increased competition is not enough to ensure a fair balance between clients and financial institutions. This is the idea behind the bill's third guiding principle: consumers, regardless of their income, and regardless of whether they live in an urban or rural setting, and businesses, whether they are large or small, must receive satisfactory service of the highest standard.

To that end, this bill gives access to bank accounts. It allows us to specify in regulation what are reasonable identification requirements for an individual to open a bank account. The bill also provides regulation-making authority regarding the provision of a low cost account, and it requires banks to follow a fair and reasonable process if they decide to close a branch.

Memoranda of understanding have been signed with every bank regarding the provision of low-cost accounts so that Canadians may have access to a bank account at a reasonable cost.

There is also provision for two new organizations to represent and defend the interests of consumers in the financial sector.

The federal government is already devoting resources to the protection of consumers in the financial services sector, but these resources are dispersed among various departments and agencies.

It will thus be possible to merge and consolidate these resources into a new federal body, the Financial Consumer Agency of Canada.

This new agency will be able to uphold the consumer protection provisions of financial institution statutes, monitor institutions' compliance with their pledges to self-regulate, and provide consumer information and promote consumer education about financial services. I wish to add, in this connection, that a task force known as the joint forum has been set up by the minister responsible, and these representatives will be working together to establish a system which will benefit consumers.

The government will work with financial institutions to launch the new Canadian financial services ombudsman.

This office will provide an independent, objective and impartial third party responsible for reviewing complaints from consumers and small business owners who believe that their financial institution has treated them unfairly and who have not been able to resolve this problem directly with the management of the institution in question.

It is important to point out that the new ombudsman will be independent of the sector and will be only for institutions under federal jurisdiction. For example, the caisses populaires in Quebec will not be able to have access to the services of this new ombudsman, without a specific agreement.

The banks will be required to join this new office, but the trust companies and life insurance companies under provincial jurisdiction but covered by federal regulations will be subject to a system of third-party dispute settlement and we invite them to opt for this new ombudsman for this.

The government also proposes a number of measures aimed at fostering the adoption of good business practices. This includes enhanced transparency and improved communication of information on financial services, so that customers have a better idea of what is going on.

Financial institutions with equity in excess of \$1 billion have to produce annual statements describing their contribution to Canadian society and to the economy in general.

Given the heavy competition to obtain customers that are better informed and protected, the Canadian consumer will be far better served under the provisions of this bill. Since government measures always come with a cost, this leads to the fourth principle, which constitutes the last underpinning principle of this bill.

The industry's security and integrity will always remain a priority. Any opportunity to lighten the regulatory burden should be seized, where possible.

Moreover, in our discussions with the minister in connection with the three categories of bank, an effort will be made by the department to ensure that regulations are appropriate to the category of bank.

Canada's regulatory system is already in large part up to date. In reality, a number of improvements were made in 1997. There are certain aspects of the system, however, that need improvement or fine-tuning, and this is what the bill has done.

First, the mechanism for authorizing a large number of operations requiring the superintendent's approval will be simplified. The superintendent will have 30 days following receipt of an application for approval to express his concerns, request additional information or call for a report. Otherwise, the operation is automatically authorized after 30 days.

Second, management of the payments system will be changed. The bill changes the mandate and structure of the public administration of the Canadian Payments Association so the public will be more involved in decision-making.

Third, prudential safeguards for the financial system will have to be consistent with the new reality of stronger competition which we are trying to bring about. The bill also enhances the powers of the superintendents of financial institutions to deal with firms that do not meet the regulatory requirements and it bolsters the superintendent's power to intervene in the affairs of a financial institution that is heading for trouble. Since we will have three levels of sales, I think this measure will help head off problems in the future.

Honourable senators, the measures embodied in the bill we are debating today uphold and advance all four of the guiding principles by forming a complete, balanced and fair legislative package.

This is why it is time to put this policy framework in place, to give effect to the spirit of this long process studies and consultation so that our financial institutions may take advantage of these opportunities to the benefit of the sector and Canadian consumers.

Finally, it is important to look to the future and see passage of the bill not as the ultimate goal, but as another step in the evolution of the policy framework of the financial services sector in Canada.

In fact, the comments made by the Standing Senate Committee on Banking, Trade and Commerce will provide fodder for the next round of consideration. Likewise, the avenues of action proposed by the various witnesses at the committee hearings will provide a starting point for the next review.

The sunset clause included in the legislation governing financial institutions requires that a review of the legislation be conducted every five years. This mechanism guarantees that the framework in which financial institutions operate continues to be dynamic, current and relevant. However, there is every reason to believe that the speed of the changes in the global environment of the financial services sector will lead us to review these issues much sooner, well before the deadline prescribed by the act.



Honourable senators, Canada's financial sector enjoys an excellent reputation and the framework of this bill will allow institutions that are governed by it to be successful here as they are abroad, for the well-being of all Canadians.

I will conclude by thanking all those who contributed to this policy, including the members who sat and produced the McKay report, the stakeholders who appeared before the committees, the colleagues who sat on the various parliamentary committees and the experts from the Department of Finance.

On motion of Senator Tkachuk, debate adjourned.

[English]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

REQUEST FOR AUTHORITY FOR COMMITTEE TO MEET  
WHILE THE SENATE IS SITTING DENIED

**Hon. Nicholas W. Taylor:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have power to sit at 5:30 p.m. today, Tuesday, June 5, for the purpose of hearing the Minister of Natural Resources in its study of Bill C-3, to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act, even though the Senate may be sitting, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. David Tkachuk:** No.

• (1510)

## YOUTH CRIMINAL JUSTICE BILL

SECOND READING—DEBATE ADJOURNED

**Hon. Landon Pearson:** moved the second reading of Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

She said: Honourable senators, before us today, at long last, is the proposed new youth criminal justice act, Bill C-7. Let me begin second reading debate by confirming our shared responsibility as a civilized and humane society to respect the rights of young people, address their needs, be sensitive to the developmental challenges that confront them, and provide guidance and support as they grow into adulthood. This responsibility to all our young people frames the proposed youth criminal justice act and is described explicitly in its preamble.

The preamble calls on communities, families, parents and others directly concerned with the development of young people

to focus on preventing youth crime by addressing its underlying causes. Young people at risk of committing crimes require adult help and direction, and government should do everything it can to ensure that both are available. In recognition that Canada is a party to the United Nations Convention on the Rights of the Child, the preamble also signals that young persons have rights and freedoms, including those stated in the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights.

However, the reality is that not all protection and prevention measures work. Therefore, Bill C-7 recognizes that, for those young people who commit offences, Canadian society should have a youth criminal justice system which commands respect, takes into account the interests of victims, fosters responsibility in young people in trouble with the law, and ensures accountability through meaningful consequences that promote effective rehabilitation and reintegration.

While I have not studied the text of Bill C-7 in depth, a number of conversations about it have convinced me that, properly implemented, the proposed youth criminal justice act will provide Canadians with a youth criminal justice system able to achieve these objectives and ensure a fair and effective system that will reduce the number of youth going into the formal justice system. It will reduce overreliance on incarceration in this country and increase reintegration measures for those returning to the community after a period in custody. These are desirable outcomes that I believe all senators will support.

A number of people, however, have argued that the existing Young Offenders Act is adequate and that the legislation does not need reform because the problems encountered stem from inappropriate implementation. Is new youth justice legislation necessary to achieve the outcomes I have listed above? The answer is yes. The truth is that more than 15 years of experience under the Young Offenders Act have shown there are substantial inadequacies in the legislation and the implementation of it.

Let me list some of the problems. First, the Young Offenders Act fails to reflect a coherent youth justice philosophy. Its principles are unclear, even conflicting, and they do not effectively guide decision makers in the youth justice system. Unlike the Young Offenders Act, the proposed youth criminal justice act provides guidance on the priority that should be given to key principles. For example, the new legislation makes clear that the nature of the system's response to an offence should reflect the needs and individual circumstances of a youth while dictating that the needs or social welfare problems of a young person should not result in longer or more severe penalties than what is fair and proportionate to the seriousness of the offence committed.

Other principles of the proposed youth criminal justice act emphasize that, first, the objectives of the youth justice system are to prevent crime, rehabilitate and reintegrate young persons into society, and ensure meaningful consequences for offences committed by young people. Pursuing and achieving these objectives must be recognized as the best way to promote the long-term protection of the public.

Second, the youth justice system must address the fact that young persons have neither the experience nor the maturity of adults. Recognizing this fact implies an emphasis on rehabilitation, reintegration and ways of holding young people accountable that are consistent with their level of maturity.

Third, interventions with young people must be fair and proportionate. They must encourage the repair of harm done and involve parents and others in the young person's rehabilitation and reintegration.

Fourth, interventions must respect gender, ethnic, cultural and linguistic differences in response to the needs of aboriginal young persons and those of young persons with special requirements.

A second problem with the Young Offenders Act, to the dismay of many observers, is that it has resulted in the highest youth incarceration rate in the Western World, including the United States. The sad reality is young persons in Canada often receive harsher custodial sentences than adults for the same type of offence. Almost 80 per cent of custodial sentences are for non-violent offences. Many non-violent first offenders found guilty of less serious offences such as minor theft are sentenced to custody.

We have to ask ourselves how such a situation has arisen. The high rate of incarceration for less serious young offenders appears to reflect two quite different sentencing approaches in this country. One is a "get tough" philosophy based on the misplaced belief that locking up young persons is the best way to protect society. The other approach is the paternalistic, needs-based treatment philosophy that bases the level of intervention on the perceived needs of the young person rather than the seriousness of the offence. The result has been some young persons have been and are continuing to be incarcerated to address their child welfare problems, even though the offence itself may be relatively minor. This is clearly unfair and an inappropriate use of the criminal law.

The proposed youth criminal justice act is intended to reduce the unacceptably high level of youth incarceration that has occurred under the Young Offenders Act. The preamble to the legislation states clearly that the youth justice system should reserve its most serious interventions for the most serious crimes and reduce its overreliance on incarceration.

In contrast to the Young Offenders Act, the new legislation provides that custody is to be reserved primarily for violent offenders and serious repeat offenders. The Youth Criminal Justice Act recognizes that non-custodial sentences can often provide more meaningful consequences and be more effective in rehabilitating young persons.

A third problem associated with the Young Offenders Act is the overuse of courts for minor cases that can be dealt with better

outside the court. The effect of court consideration of minor cases is delay and an inability of the courts to focus on more serious cases. Experience in Canada and other countries has shown that measures outside the court process can provide effective and timely responses to less serious youth crime. Although the Young Offenders Act permits the use of alternative measures, over 15 years of experience under the Young Offenders Act indicates that the act fails to provide enough legislative direction regarding their use.

The proposed youth criminal justice act is intended to enable the courts to focus on serious youth crime by increasing the use of effective and timely non-court responses to less serious offences. These extrajudicial measures are intended to provide meaningful consequences, such as requiring a young person to repair the harm to the victim. They also enable early intervention with young people and provide opportunities for the broader community to play an important role in developing community-based responses to youth crime.

Some of the provisions in the Youth Criminal Justice Act that encourage the use of extrajudicial measures in less serious cases include a presumption that these measures should be used with first-time, non-violent offenders. The provisions also include specific authority for police and prosecutors to use a range of extrajudicial measures such as informal warnings, police cautions, Crown cautions and referrals to community programs.

[Translation]

The Young Offenders Act resulted in inconsistent and unfair sentences for young people. Sentences imposed under the Young Offenders Act often do not reflect the seriousness of the offence. There are often significant differences between the sentences imposed on young people for similar offences, under similar circumstances. As I already indicated, young people regularly get harsher sentences than those imposed on adults for similar offences. In some cases, the sentences imposed on young people based on their needs or social problems is longer or harsher than what would be fair and appropriate given the seriousness of the offence.

• (1520)

The proposed new bill sets out a clear, consistent and coherent code for sentencing. It is intended to reduce disparity and therefore reflects a fundamentally fairer approach.

The new bill therefore provides that the punishment imposed on a young person must not be greater than what would be imposed on an adult in similar circumstances.

Similarly, the Youth Criminal Justice Act provides for fair and proportional responsibility consistent with the dependence of adolescents and their degree of maturity relative to the seriousness of the offence and their level of responsibility.



The Young Offenders Act does not allow rehabilitation of a youth after his release. One of the shortcomings of the Young Offenders Act is that a youth can be released without supervision and without assistance in reintegrating the community.

The new legislation contains provisions for helping young people achieve reintegration. The Youth Criminal Justice Act requires that any period of custody be followed by a period of supervision and assistance in the community.

At the time of sentencing, the judge states the portion of time to be served in custody and the portion to be served in the community. If the youth does not respect the conditions of community supervision, he or she could be returned to custody.

[English]

The bill provides that, once a young person enters custody, a youth worker must work along with the young person to develop a reintegration plan. This plan should set out the best programs for the young person and should provide continuity between custody and the community living.

An important element in preparing for community reintegration is provided by expanded reintegration leaves. This allows a young person in custody access to community programs and contacts. The bill's emphasis on assisting a young person to successfully make the transition back to the community is based on the belief that all young people can be helped and reintegrated if they are given the proper support, assistance and opportunities.

I should now move to another issue which constitutes what I consider to be the sixth problem with the Young Offenders Act. There has been a great deal of confusion, and consequently a great deal of misplaced controversy, concerning the age at which, under Bill C-7, a young person can receive an adult sentence. Let us examine what happens now. For nearly 100 years, under both the old Juvenile Delinquents Act and the current Young Offenders Act, the law has allowed young persons who are 14 years of age or older to be transferred to adult court under certain circumstances. If the young person is convicted in adult court, the court can impose an adult sentence. Let me assure honourable senators that the proposed youth criminal justice act will not lower the age at which a young person may be subject to an adult sentence.

Under the Young Offenders Act, if a 16- or 17-year old is charged with murder, attempted murder, manslaughter or aggravated sexual assault, it has been presumed that he or she will be transferred to adult court and, if convicted, will receive an adult sentence. The presumption does not mean that there will be an automatic adult sentence. It means that the young person must persuade the court that he or she should remain in the youth court.

The Senate was very concerned about this presumption when we amended the Young Offenders Act in 1995, shortly after I joined the Standing Senate Committee on Legal and Constitutional Affairs. While there is no change in Bill C-7 with respect to the age at which a young person can receive an adult sentence, the bill does allow for a change in the application of the presumptive offences. The age at which the presumption applies may be 14, or older than 14 and set at 15 or 16, if a province decides to use its authority to set an age under clause 61. This responds to provincial concerns that the presumption of an adult sentence for very serious offences should not apply at age 14. This change provides flexibility for provinces to set the age at 15 or 16.

Other important changes are made in Bill C-7 as well to increase the fairness of the process for determining whether an adult sentence should be applied. Experience has shown that the process under the Young Offenders Act for the transfer of young people to the adult system has resulted in unfairness, complexity and delay. The process violates basic fairness by providing that a young person be transferred to an adult court before being found guilty of the offence.

Under the Young Offenders Act, the young person loses age-appropriate due process protections, including privacy protections, on the basis of an unproven charge. Also, transfer proceedings have lasted as long as two years, which impedes access to a speedy trial. It also has resulted in wide differences among provinces in the number of transfers of young persons to the adult system. For example, in 1998-99, Manitoba led the country with 29 transfers. Quebec was second with 23, which was nearly four times the number in Ontario, which had six transfers, and more than double the number in British Columbia, which had 11 transfers.

The proposed youth criminal justice act contains significant changes that address the unfairness of the current transfer process. The transfer process is eliminated. Instead, the youth court has the authority to impose an adult sentence in certain circumstances. The hearing on the appropriateness of an adult sentence will occur only after a finding of guilt. If a young person receives an adult sentence, it is to be presumed that, if the young person is under 18, he or she will serve the adult sentence in a youth facility. This is more consistent with the UN Convention on the Rights of the Child which is expressly referenced in the preamble to the proposed legislation.

It is of the utmost importance that the process for imposing an adult sentence on a young person be fair, and that the youth justice court take into account the seriousness and circumstances of the offence and the age and maturity of the youth. This is preferable to automatic adult sentences for certain youth, which would only serve to undermine the very meaning of a separate youth justice system.

I will now proceed to the seventh problem with the act.

[Translation]

The Young Offenders Act does not make a clear distinction between serious and less serious violent offences. This is a fundamental issue underlying a good number of the other problems posed by the Young Offenders Act, such as the high rate of incarceration of young people and the too frequent involvement of the courts for less serious offences.

When a youth criminal justice system cannot make a clear distinction between serious and less serious violent offences, it should come as no surprise that the public has less faith in the system.

The Youth Criminal Justice Act consistently makes this important distinction at key points throughout the legislation. It is reflected in the preamble and declaration of principles, the extrajudicial measures, the sentencing principles, the rules on adult sentencing and the provisions regarding release from custody.

Unlike the Young Offenders Act, a basic policy of the new legislation is that serious violent offences are to be treated seriously and less serious offences are to be dealt with through less intrusive yet still meaningful consequences.

[English]

In many cases, these approaches prove more meaningful, for they involve the victim. In dealing directly with the victim, a youth often comes to understand the impact of his or her actions better and to accept responsibility for them and then to undertake to repair the harm he or she has caused.

An eighth and final problem with the Young Offenders Act is the failure of the act to recognize the concerns and interests of victims. The proposed youth criminal justice act takes these concerns into account and clarifies the role of victims in the youth justice process.

Key provisions include the following: The principles of the act specifically provide that victims are to be treated with courtesy, compassion and respect for their dignity and privacy. They should also be given information about the proceedings and be given an opportunity to participate and be heard. Victims have a right of access to youth court records and may be given access to other records. The victim's role in community-based approaches, such as conferences, is encouraged. If a young person is dealt with by an extrajudicial sanction, the victim of the offence has a right to be informed of how the offence has been dealt with.

I would now like to offer a brief review of the major steps that led to the introduction of Bill C-7. When the most recent amendments to the Young Offenders Act were passed in 1995, the government committed to conduct a comprehensive review of legislation, as well as of the operation of the youth justice system. After a decade of experience with the Young Offenders Act, it was time to step back and assess how the legislation and the system could be improved in ways that took account of Canadians' concerns and reflected their values.

The House of Commons Standing Committee on Justice and Legal Affairs carried out a thorough review that included holding hearings across Canada. The committee also considered the results of a separate review of the Young Offenders Act and the youth justice system that was completed in 1996 by the federal-provincial-territorial Task Force on Youth Justice. The standing committee's report, "Renewing Youth Justice," issued in 1997, offered a number of valuable recommendations for improving the system. The federal government reviewed the committee's report and released its response, "A Strategy for the Renewal of Youth Justice," in May 1998. The strategy set out the basic themes and policy directions that were taken up in Bill C-3 and are now to be found in Bill C-7. Considerable input from individuals and organizations was also taken into account.

In March 1999, the first version of the Youth Criminal Justice Act was introduced into the House of Commons. Parliament prorogued in June and the Youth Criminal Justice Act was reintroduced as Bill C-3 in October of 1999. The bill proceeded through second reading in the House of Commons, and the Standing Committee on Justice and Human Rights held hearings during which it heard from approximately 100 witnesses. Views were varied. Some were very critical, others constructive, representing the whole spectrum of attitudes and approaches to young people in trouble with the law characteristic of the Canadian public.

Prior to third reading on Bill C-3 in the House of Commons, the federal election was called and the bill died on the Order Paper. It was reintroduced as Bill C-7, strengthened by a number of changes recommended in testimony before the Commons committee studying Bill C-3. Five other amendments were made in committee.

The following changes were made to the preamble and principles. Adjustments were made in order to provide greater clarity, to reinforce the importance of rehabilitation, and to address the needs of youth. Long-term protection of society remains an overarching principle but the means to obtain that protection received much greater emphasis. The importance of timely intervention is recognized in the principles.

A reference to the needs and level of development of the youth has been added to the principles. The importance of public education has been recognized in the preamble. A section on victims has been strengthened in the preamble. Specific reference to the needs of Aboriginal young people has been included.

Other changes have been made to accommodate some provincial concerns. Quebec and Ontario have continually criticized the Government of Canada's approach to youth crime. One province is claiming Bill C-7 is too harsh and the other is accusing us of being weak-kneed. However, we believe this legislation is not about being tough or weak; it is about getting the balance right. Quebec has even asked to be allowed to continue to apply the Young Offenders Act. In response to political pressures, the Youth Criminal Justice Act now addresses problems in the youth justice system in a manner that offers more flexibility to the provinces so they can implement the legislation to reflect local needs and circumstances.



However, Bill C-7 is founded on federal criminal law and federal criminal procedural power, so there must be only one youth criminal justice law operating in Canada. Fundamental legal principles must be respected. Allowing any province to opt out of federal youth criminal justice legislation would undermine one of the keystones of the Canadian system. Nevertheless, Bill C-7 offers the flexibility that Quebec requires to allow it to maintain its approach to youth justice.

Although the Government of Ontario may believe that punishment alone serves to protect society, research does not support this point of view, nor is it reflective of the approach most Canadians support. The informed view is that real protection is achieved through prevention, meaningful consequences for the range of youth crimes, and rehabilitation and reintegration. These are the premises on which Bill C-7 is constructed.

Honourable senators, let me conclude by saying a few words about the broader strategy of Justice Canada with respect to young people in trouble with the law. We all have to recognize the limits of legislation. Our expectations about what legislation can and cannot accomplish must be reasonable. This is why the Youth Criminal Justice Act is only one part of the government's much broader approach to youth crime and to the renewal of Canada's youth justice system. Increased federal funding, crime prevention efforts, effective programs, innovative approaches, research, partnerships with other sectors such as education, child welfare and mental health, assistance to Aboriginal communities, and appropriate implementation by provinces and territories are all part of the broader strategy for the fair and effective renewal of Canada's youth justice system.

A well-informed and well-trained professional workforce is also essential to success of youth justice renewal. The federal government is working collaboratively with its youth justice partners in supporting better preparation for those who work in the youth justice system. As it awaits the passage of the Youth Criminal Justice Act, the Department of Justice is developing explanatory materials on the legislation that describe its rationale, goals and operation. The materials are being designed as a resource base for provincial and territorial officials and other professionals who need to train their members. The federal government will support this and other aspects of implementation of the legislation with funding.

Honourable senators, it is now our turn to scrutinize the bill. We should take all the time we need to ensure that a bill that has elicited as much controversy as this one has, particularly in its early form as Bill C-3, can stand up to the challenges it has set itself. I should like to believe that the best values of a society are reflected in its legislation. For the sake of our youth, as well as for the safety of the society in which we all live, we need to get this one right.

On motion of Senator Andreychuk, debate adjourned.

[Translation]

## MISCELLANEOUS STATUTE LAW AMENDMENT PROPOSALS

MOTION TO REFER TO COMMITTEE ADOPTED

**Hon. Fernand Robichaud (Deputy Leader of the Government)** pursuant to notice of May 31, 2001, moved:

That the document entitled "Proposals to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal an Act and certain provisions that have expired, lapsed or otherwise ceased to have effect", tabled in the Senate on May 30, 2001, be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

Motion agreed to.

[English]

## FEDERAL NOMINATIONS BILL

SECOND READING—DEBATE CONTINUED—POINT OF ORDER

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Cohen, for the second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Beaudoin*).

**Hon. Serge Joyal:** Honourable senators, I have informed Senator Stratton, who is the sponsor of my bill, of my intention today to raise a point of order. I have also informed Senator Beaudoin who was listed on the Order Paper to speak today.

My point of order relates to Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high-profile public positions. I do not want to take part in the debate today on the merits of the substance of the bill, but I want to raise the formal issue of the Royal Consent. In my opinion, that issue has to be determined in order to validly adopt this bill.

If I understand the objective of this bill, it is to provide that, in the future, the positions listed under Schedule, Part I of the bill will be the subject of compulsory procedures for any minister of the Crown who proposes the appointment of a person to fill one of those positions. Most of those positions are covered by the Constitution Act. For instance, the lieutenant governor of a province is appointed under section 58 of the Constitution Act. Senators are appointed under section 24 of the Constitution Act. Judges on the second part of the annex are appointed under section 96 of the Constitution Act.

• (1540)

There is one position that is of a special nature, and that is the position of Governor General. In the case of the Governor General, nothing in the form of a statute provides for the appointment of the candidate. It is still the absolute prerogative of the sovereign to choose and select whomever she or he wants to appoint to act in her or his capacity.

The objective of this bill would be to fetter the prerogative, either the way we know it in terms of the Governor General in Council appointing one of the other positions listed in the schedule or the prerogative of Her Majesty as it stands now. As I understand the prerogative of Her Majesty in appointing her representative to act on her behalf under the Crown of Canada, Her Majesty can appoint whomever she wishes without giving any reasons or any explanations. She still has an absolute prerogative in terms of statutes.

Again, I am not pronouncing on the merits or substance of the bill. As I read clause 9, the minister of the Crown shall first propose the appointment and then the Senate shall invite the person. It is an obligation. It is not just a possibility; it is not just a discretion.

I am not pronouncing on the merits of this bill, but its real effect is to fetter the prerogative of the Crown, either the Queen acting on her own behalf as the Crown of Canada or a minister of the Crown proposing candidates to the Governor General in Council for appointment.

If we are to validly adopt this legislation — and, again, I am not pronouncing against this bill — I think we should make that point clear. It is a very important element, and I would not like to delay the debate that is to take place and that has already started in our chamber. I defer to Senator Beaudoin who allowed me to raise this point of order. I am not asking the Speaker to delay the debate. That issue could be taken under advisement and the Speaker could inform this chamber, at the proper time, of his decision. We would be taking an important initiative that is of a constitutional nature, because all of these positions are covered by the Constitution of Canada in one way or another.

If we are to proceed constitutionally with this bill, I would be grateful if His Honour could enlighten our debates with his ruling.

**Hon. Terry Stratton:** Honourable senators, the Honourable Senator Joyal is possibly correct, and I will not argue that. This matter could be discussed in the Standing Senate Committee on Legal and Constitutional Affairs and a determination could be made in that committee.

Senator Molgat ruled in relation to the Royal Assent bill. He stated that as long as the Royal Consent is added to the bill before it is finally passed in the House of Commons, then we should be okay.

That discussion could take place in committee. The Royal Consent would be required as to the appointment, and we could carry on.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, Senator Joyal raises an interesting question. If I understand him correctly, he has indicated that rather than looking upon this as a point of order that would impede or indeed cause the suspension of debate on the principle of the bill, he is of the view that it might be important for us to examine this question and have guidance from the Chair.

The point of order having been raised, perhaps it would be better to not ask that there be a ruling from His Honour but rather that notice be taken of the question that has been raised. Should His Honour rule that the point of order is well taken and therefore that the bill is out of order, we could not proceed with the bill. I do not think that was the intent, as I heard Senator Joyal. My first point, then, would be that perhaps we ask of His Honour that he take notice of the question so that he might do some research and that he not consider this a point of order in the ordinary sense that would hold up debate on the principle of the bill.

I think that the authority of the executive is not ultimately impeded by the bill. The executive maintains its authority to make an appointment. My understanding of the bill is that there may be some advice given, and there may be some recommendations as to tests for qualification. The pith and substance of the objection that has been well made and raised by Senator Joyal is whether the bill would impinge upon the authority of the executive, therefore requiring a Royal Consent, because it would interfere with the appointment power. I think the committee will find when it examines Bill S-20 that in actual fact it does not modify the final executive decision of the Crown. Nowhere does it state that the purpose of this bill is to impede the authority of the Crown in exercising its appointment powers but rather to set in place some transparency measures.

Honourable senators, we are dealing with an unusual circumstance. It is like a point of order, but even the senator who raised the matter, as I have understood him — and I would concur with him — suggests that we treat it more by taking note of the concern such that the progress of the debate on the principle of the bill and the bill's referral to committee, should that occur, not be impeded.

[Translation]

**Hon. Gérard-A. Beaudoin:** Honourable senators, I deliberately left the position of the Governor General to one side, because there is definitely, as Senator Joyal has said, a question of prerogative involved. I am not prepared today to speak to the Point of Order in general terms, because it is a matter requiring some research.



However, since I have decided not to speak of the Governor General or indeed the monarchy, I am prepared to speak on two other matters, specifically the justices of the Supreme Court and the senior officials of government. I think it possible to take the question raised by Senator Joyal on prerogative under advisement.

Honourable senators, if we want to consider all matters of prerogative all together and adjourn the debate until the Speaker of the Senate provides a ruling, I would willingly accept this decision. I am ready to speak to everything except royal prerogative.

• (1550)

[English]

**Senator Joyal:** I would thank Senator Kinsella for his remarks. I share his opinion that the Crown can signify Royal Consent at any point before the vote is taken at third reading. Honourable senators will remember that a year ago, on Bill C-20, we had an unexpected situation. Notice was given to this chamber by a member of the Privy Council, on behalf of the Crown, that Royal Consent was conferred and we finally voted on third reading of Bill C-20.

I have absolutely no reservation about the debate continuing. The bill can be referred to committee where we can hear witnesses. The committee can report and we can proceed to third reading debate in the chamber. When His Honour sees fit, he can inform this chamber of his ruling. The final decision on the question of Royal Consent is in the hands of the Speaker. We can raise that issue in committee, but we must leave the final decision on this in the hands of the proper authority in this chamber.

**The Hon. the Speaker:** As no other honourable senator wishes to speak, I will take the matter under advisement. Perhaps I should clarify, however, what I am taking under advisement.

Senator Joyal has raised an important question on the requirement for Royal Consent under Bill S-20 specifically as it relates to the appointment of a Governor General, along with other matters that may be relevant. We have the precedent from the last Parliament in the ruling of the chair and in my position as Speaker. I accept that, according to the authorities, Royal Consent can be given at any time before third reading of a bill. Accordingly, debate on the matter can proceed while I have the matter under consideration.

If I understood correctly, Senator Beaudoin indicated that he may wish to address this point of order later. That would be unusual, although there is precedent for it. I do not believe that discussion on the point of order should continue for very long because, until all comment has been received and the Speaker has indicated that he has heard enough, the matter is open for further comment.

Does Senator Beaudoin wish to comment further at a later date? If he does, I will rule now on when he may do that. I would not want to wait longer than until tomorrow for that comment.

**Senator Beaudoin:** I accept that we can continue with our study of the substance of the bill since, as His Honour has stated, there is precedent for that. I will not come back to the point of order because this precedent solves the problem for the moment.

**The Hon. the Speaker:** I take it there is no request to return to the point of order. Accordingly, I have heard enough on the point of order and I will take the question under consideration. I rule that it is appropriate, as we have in the past, to continue with the debate, because the issue under consideration is the requirement for Royal Consent, which can be given at a later date.

[Translation]

**Senator Beaudoin:** Honourable senators, I wish to say a few words on Bill S-20. The purpose of this bill is to increase transparency and objectivity in the selection of suitable individuals to be named to certain high public positions. No one can stand against what is good and right. Bill S-20 generates a definite interest.

It proposes the establishment of a nominations committee of the Privy Council. This committee would develop criteria and procedures for identifying suitable individuals for certain positions.

In this respect, there are two categories. The first one includes the following positions: Governor General, Chief Justice of Canada, Speaker of the Senate, Lieutenant-Governor of a province, Commissioner of a territory, Judge of the Supreme Court of Canada and Senator. The second category includes the following positions: Judge of the Federal Court of Canada and Judge of the Superior Court.

Before recommending an appointment, the minister responsible must announce it either by giving notice in both Houses of Parliament or by publication in the *Canada Gazette*.

Finally, a parliamentary hearing would be held to discuss the incumbent's eligibility and qualifications for the position and his views on the responsibilities of the position. In case of an emergency, the hearing could take place before the Committee of the Whole of the Senate. The appointment could also, in certain cases, be made without a parliamentary hearing.

In our democratic system, there is always room for improvement. Thus, for example, we know that a strong, independent and impartial judiciary must be at the foundation of any democracy. Fortunately, this is the case in Canada. Since the Act of Settlement, 1701, which comes to us from the United Kingdom, we have had an independent judicial system. In a recent case, the Supreme Court held up the preamble to our Constitution as the basis for an independent judiciary.

We have been monitoring the constitutionality of our laws since at least 1865, since the Colonial Laws Validity Act. This monitoring is rigorous. We have seen it in the way powers have been shared within the Canadian federation since 1867 and, in the case of the Canadian Charter of Rights and Freedoms, since 1982. The highest court in the land based 450 of its decisions on our Charter of Rights and Freedoms. This is extraordinary! This legislation is undoubtedly one of the cornerstones of our democracy.

As we know, there are two other important branches: the legislative and the executive. The Americans were the first in the modern era to base their constitution on the balance between the three major branches of government.

Our parliamentary system comes to us from the United Kingdom. We know that we have three major branches in Canada but, in many cases, the legislative and executive branches are inter-related. We know that in a majority government nowadays, the Prime Minister controls both the executive and legislative branches. Still, our rules ensure a certain balance between these two branches.

• (1600)

Bill S-20 intends to go much further. Legislative power must be bolstered. Professor Savoie has pointed this out in his writings. I therefore support having the appointments of certain major servants of the State ratified by the legislative branch. This was mentioned in connection with Supreme Court justices and senior public officials.

The United States' system of selecting its justices of the Supreme Court is well known. The Senate judicial committee must approve the President's Supreme Court nominees.

According to Court history, some were not accepted, either wrongly or rightly, but by far the majority were.

There were such cases in the days of Franklin Delano Roosevelt, and again more recently. The American system merits consideration. I recall that Justice La Forest of our Supreme Court suggested such a thing when he left the Court.

I am not convinced this is the way to go. It is possible that such a system would politicize the legal system. At this time, I am not in favour of such an approach.

I would, however, suggest that the Prime Minister of Canada consult the Solicitor General of the province concerned, but I would leave the final decision up to the head of the executive.

As for the senior officials, this is another case entirely. In the Beaudoin-Dobbie report, we proposed that the Senate play a role in ratifying appointments for the heads of such federal institutions as the Bank of Canada, the CBC, the National Film

Board, the Canada Council, the CRTC, the National Energy Board, and the Canadian Transportation Agency.

This would enhance our democratic values and strengthen the legislative branch of the State. The parliamentary system needs reinforcing in today's world, and not just in Canada. A number of democracies have addressed this issue recently, and were right to do so, in my opinion.

This bill should be thoroughly studied, for example, by the Standing Committee on Legal and Constitutional Affairs.

In recent months, senior officials of government have been heard in Committee of the Whole here in the Senate before their confirmation in their senior positions. I support this approach strongly. We are thus improving the parliamentary system without having to amend the Constitution. This, honourable senators, is an approach worth exploring.

**Hon. Roch Bolduc:** Honourable senators, I will perhaps be outside or at the limit of the subject. I have two concerns. First, as Senator Beaudoin mentioned, a certain balance of power, and, second, the role of the Senate.

In this regard, I am not convinced senators must have a say in the appointment of the Governor General, Lieutenant-Governors or senators.

As concerns the justices of the Supreme Court, I would support having a say in their appointment. I exclude Senator Joyal's objection. However, as it concerns having a say in the appointment of the other justices, I am not certain, because we would have to consider quite a number of appointments. If a Senate committee decided to examine the appointment of 1,000 justices and had a say in all of these cases, it would be a cumbersome process.

The government, though, has the discretionary power to appoint deputy ministers and the presidents of Crown corporations and administrative tribunals. That amounts to a lot of people. I think the government must be reminded of the importance of appointments to the senior public service and to similar positions, including within administrative tribunals and Crown corporations.

In the case of the Supreme Court, it seems to me we would improve the process if a say were permitted. In interpreting the Charter, the justices of the Supreme Court continually make value judgements, and the values are often contradictory, hence the importance of questioning them in order to have their point of view.

As regards the appointment of deputy ministers, I would not necessarily agree. I will tell you why. In the American system, the departments are created by laws that include statutory powers given to the head of the department. This means that heads of departments in the United States have real powers.



Those like me who have been familiar with the U.S. administration over the last 50 or 100 years will know that these people do not represent the President. They have an act to administer and they administer it. In fact, each department deals with its own business and the whole administration operates in this fashion.

In Canada, a minister is part of the cabinet and makes decisions. He is generally advised by a competent deputy minister. Therefore, I would not subject deputy ministers to questions relating to the advice that they provide to their minister. Such advice is based on their profile, training, experience, values and everything that is part of one's personality. It is up to the minister to decide and the deputy minister provides advice in confidence.

In the British system, we must leave things at that. I am not saying that I disagree with the British system. However, for as long as we live in a British system, we must preserve this degree of confidentiality that allows the deputy minister to freely give his opinion, in private, to his minister.

However, in the case of Crown corporations such as the CBC, it is important that the Senate have a say since it is, in a way, the guardian of the representations made by minorities in the country. The fact that the Senate can examine these candidates will ensure that the government is very careful in ensuring that the person appointed is beyond reproach. This would provide, even before the selection process, a degree of seriousness in the appointment process, something I find reasonable.

I mentioned the CBC because it is made up of two corporations: one in Toronto and one in Montreal. Some things may be done in English in Montreal while others may be done in French in Toronto, but that does not matter. The idea is to have the appointments reviewed by a group that operates at arm's length from the government. This is also important in the context of the possible definition of the Senate's role.

• (1610)

Right now, the Senate does not play such a role, but it is one that would make a lot of sense. We already have important legislative and investigative roles, and we could be involved in the review of appointments. This would be entirely appropriate for people whose experiences are diversified and who represent different cultures and provinces. This would be a good thing for certain Crown corporations, but not for all Crown corporations. Some of them are strictly economic, so that is perhaps not the same thing. I am thinking of the CBC, and there are other Crown corporations that could be interesting. For instance, it would be good to know what the Chief Statistician thinks. He does not only have a technical role. When one decides how the census will be done, or how external trade with the United States will be measured, this is a technical role, but it is also more than that.

Appointments should be reviewed so that we know who would occupy this position.

The same should hold for administrative tribunals. That is perhaps the most important part. I am thinking of the CRTC for instance, which seems to me to be a very sensitive body — everyone knows this. It grants broadcasting licences. There is something very sensitive in terms of cultures. I think it important that the Senate be able to play such a role with respect to the National Film Board and other cultural institutions.

That is all I will say for now. I know that I am on the periphery of the bill. However, I wish to emphasize two points, one of which is the unchallenged power of the government to make appointments. In the past seven or eight years, Mr. Chrétien must have made between 2,000 and 3,000. This is a huge number. These are senior level positions. It seems to me that this discretion should be tempered by some form of review of certain appointments.

As for the Supreme Court, I am not yet sure, but I am inclined to say yes, primarily because of the Charter. I would add the Federal Court and certain positions in certain Crown corporations or other such agencies. This is important for the Senate, and above all for the Canadian public.

**Hon. Marcel Prud'homme:** Would Senator Bolduc answer a question?

**Senator Bolduc:** Certainly.

**Senator Prud'homme:** Honourable senators, I intend to take part in this debate, but I have a question in mind already. The senator has referred to the selection of candidates for senior levels of public authority. In my opinion, the highest public authority is the Parliament of Canada. Parliament has two chambers, the elected House of Commons and the appointed Senate. Does the honourable senator intend his remarks to include Senate appointments?

**Senator Bolduc:** I avoided this because it will start up a huge debate. Senator Joyal has written a text in which he says senatorial appointments are a good thing. When I came here in 1988, I shared that opinion. I felt it was a good thing for the government to appoint senators, because it appoints good people. I am here, am I not? However, it has to be admitted that there was a selection process. I am here as a result of the Meech Lake agreement: My appointment was recommended by the Government of Quebec and accepted by the federal government. Honourable senators, you can see that as a former public servant I came to them more or less unsullied.

I do not want to start that debate today, because I now believe that Senate seats should be elected, for the good reason that it is difficult for people who are not elected to establish legitimacy. There are plenty of good people here, but the public has misgivings about us, in my opinion, because we are not elected.

However, if we were to be elected, then we would get into party politics and we are better off being appointed than getting into that. The solution ought to be a bit like the French model of indirect appointment through municipal elected representatives. We could be elected by a body of people a bit larger than the MPs' ridings. For instance, in my case three or four ridings could be involved. That would not be very costly. An election campaign would not be a lengthy process; a person would just go from village to village. This would be possible.

There has to be some distance from the party system, which already drives the House of Commons and which is a huge centralizing factor, especially now that the party leaders are not chosen by caucus but by the party. This approach must be dropped absolutely if we want to have someone offsetting to some degree the power on the other side.

This is why I did not want to address the question of senators. I reserve that for another time when we speak of the role of the Senate and the way senators should be appointed.

On motion of Senator Robichaud, debate adjourned.

[English]

## PERSONAL WATERCRAFT BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Spivak, seconded by the Honourable Senator Meighen, for the second reading of Bill S-26, concerning personal watercraft in navigable waters. —(*Honourable Senator Finnerty*).

**Hon. Isobel Finnerty:** Honourable senators, I adjourned debate on Bill S-26 because I required time to review it. I now recommend that the bill be referred to committee.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read a third time?

On motion of Senator Kinsella, for Senator Spivak, bill referred to the Standing Senate Committee on Transport and Communications.

## STUDY OF PRESENT STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

### BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES—REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Banking, Trade and Commerce (budget-special study on the present state of the domestic and international financial system) presented in the Senate on May 29, 2001. —(*Honourable Senator Kolber*).

**Hon. E. Leo Kolber** moved the adoption of the report.

Motion agreed to and report adopted.

## PRIVILEGES, STANDING RULES AND ORDERS

### BUDGET AND REQUEST FOR AUTHORITY TO TRAVEL—THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report of the Standing Committee on Privileges, Standing Rules and Orders (budget) presented in the Senate on May 17, 2001. —(*Honourable Senator Austin, P. C.*).

**Hon. Jack Austin** moved the adoption of the report.

Motion agreed to and report adopted.

[Translation]

• (1620)

## SITUATION OF OFFICIAL LANGUAGES IN ONTARIO

### INQUIRY

On the Order:

Resuming debate on the inquiry by Senator Gauthier, calling the attention of the Senate to current issues involving official languages in Ontario.

**Hon. Eymard G. Corbin:** Honourable senators, after listening carefully to the words of Senator Gauthier on the current issues involving official languages in Ontario, I though I might want to add a comment. However, after due reflection and particularly because Senator Gauthier addresses these questions fairly regularly these days, I have decided not to participate in the debate. The Senate would perhaps be prepared to withdraw this inquiry from the Order Paper.

**The Hon. the Speaker:** If no other honourable senator wishes to speak, this inquiry shall be considered debated.



[English]

## VIEWS OF BRITISH COLUMBIANS ON WESTERN ALIENATION

### INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Carney, P. C., calling the attention of the Senate to the views of some British Columbians on the subject of Western alienation and ways to reduce regional tensions. —(*Honourable Senator Taylor*).

**Hon. Nicholas W. Taylor:** Honourable senators, earlier I asked leave for a committee to meet at 5:30, even though the Senate might then be sitting, and I was turned down. It is too bad that Senator Tkachuk is not here, as I was planning to subject him to an hour of listening to me. Rather than walk all the way back to my office and then return for the 5:30 meeting, I shall make this speech which has been boiling up inside of me for the last couple of months.

Most speeches are made here when there is a small audience, particularly on the opposition side, with the hope that our home province newspapers will print them. However, my home province has nothing but Tory newspapers, so I know that it will not be printed there. Therefore, I will subject honourable senators to my speech on Western alienation and comment on Senator Carney's speech. Someone searching the dusty archives in the years ahead might find it.

One hears much about Western alienation. It is common to group everyone who lives in the west together. A westerner is seen to be someone who smokes Marlboros, wears a wide-brimmed hat and goes galloping on a horse across the prairie. That reality, if it did exist, no longer exists. In Calgary, westerners drive Lexus cars and are employed in the high tech industry. In Saskatchewan, westerners have farms large enough that it takes half a day to cross them with a truck, not because the truck is in bad shape, but because the holding is that big from border to border. In British Columbia, westerners range from residual hippies from the 1960s to bright-eyed mining engineers and wine-makers who have made their move. Now that we can export ice wine to Europe, people with orchards in the Okanagan are praying for frost in the fall so they can make ice wine rather be worried about the possibility of an early frost, as they were in the old days, which would ruin their crops.

The west is not monolithic, although at times it has a tendency to vote as if it were. One factor common to Western alienation, if one wants to call it alienation, is the traditional sentiment of hating the tax collector. Whether you read the New Testament or the Old Testament, the tax collector was pretty well at the bottom of the social list in biblical times. In the west, that still applies.

Westerners should remember that Alberta and Ontario are probably the main contributors to the equalization formulas that help to maintain Canada, and rightfully so. Alberta is rich, as is Ontario. There is one big difference: Albertans hate the tax collector because they do not have 24 senators and 100 MPs. They feel rather helpless. Ontarians are able to not only contribute to the Confederation, they are in a position to milk the cow first. Ontario is the province with the most power, both in the Senate and in the House of Commons.

At times, powerlessness is felt by westerners. That is particularly true of Canadians living in Alberta and B.C., which provinces make up the majority of the west. Those westerners do not like paying taxes to Ottawa. As a matter of fact, in my years in politics, I have never found the rich side of the city that liked to pay taxes to help maintain the roads, sewers and schools of the poor.

The Puritan ethic is quite strong in the west. If you are poor, it may well be that you or your ancestors sinned. If you are rich, it is because God is smiling on you. If you are kind to your pets, make sure your children do not swear too much, your wife has a nice car to drive, then possibly an oil well will spring up in your backyard to reward you for being good. That attitude is pervasive.

The thought of sending money east for equalization purposes is bothersome. Westerners think that equalization would be facilitated by sending a pair of shoes to everybody, or a ticket so that people can move to Alberta or the west. The idea of sending money eastward for people to stay where they are bothers them. Westerners have convenient memories. That is one of the advantages that I have, reaching the three-quarter of a century mark, and also being born and raised in Alberta. I remember when the Maritimes donated codfish and apples to keep us going in the 1930s.

The trouble is that too many westerners have a short-term view of what is going on. They think that oil will reach \$40 a barrel, that eventually wheat will come back, and that beef will be high priced for a long time. The frustration that westerners express is that they have no input. In our democratic process, we will not quickly solve that problem. Steers, barrels of oil and dollars do not vote. People vote. The solution is to make westerners feel that they are part of the democratic process.

In recent times, westerners have felt even more frustrated because many of them put their money on a horse called the Alliance Party.

• (1630)

The horse not only was slow getting out of the gate but fell on its face before it hit the first quarter pole. Naturally, the westerners who backed that horse, which was going to do great and wonderful things down here, felt a bit frustrated.

Distance, of course, is always a factor, but now, with air flights going back and forth frequently, it is not as difficult as it used to be. Representing Alberta, I still have a three-hour flight coming to Ottawa and a three-and-a-half to four-hour flight back home. Most people do not realize that as the world circulates, west winds are much stronger than east winds. This might even contribute to the notion that we can get down here much faster than we can get back because we are flying with the wind.

I do not have any smart solutions. I make the standard comment that we are not alienated; most westerners have a forefather or relative working in the East or in other parts of Canada. Westerners support the idea of Canada; they support equalization payments. However, they want to have more of a say, somehow or another, in how their money is spent.

One of the ways westerners talk about achieving that goal is through an elected Senate. Westerners make up roughly 25 per cent of the Senate. The Maritimes, which is the other area where oil has sprung up, makes up another 25 per cent. The two areas can argue that together they comprise 50 per cent of the Senate, whereas in the House of Commons the West and the Maritimes are down to less than 40 per cent. We are not suggesting that Ontario, like China, has suddenly put restrictions on expanding its families. Nevertheless, the way Ontario and Quebec are growing, their percentages are widening. We may find Ontario and Quebec with two thirds of the seats in the House of Commons in the not-too-distant future.

Ontario needs us; we need Ontario. Ontario and Quebec need the West; the West needs Ontario and Quebec. Alberta, which I represent and which I represented in the legislature for many years, is quite pleased to have one of the best French-as-a-second-language school systems in Canada, and many Albertan families are educated in French. In my own large family, seven out of the nine members are quite bilingual. The other two went south to learn Spanish instead.

The point is that young, aggressive westerners are learning to speak French. Every day I meet people from Quebec who hold good jobs in worldwide corporations that are headquartered in Calgary. They actually have a leg up over the westerner who is not bilingual. This practice will pay big dividends in the future.

As to how people in Alberta, B.C. and Ontario, who pay for Confederation, can feel less overtaxed, I suggest it is out of their hands. I have a feeling that over the next generation the Maritimes will become a contributor to the equalization formula. Let us hope that they do it with as good a grace as the West has done it. Of course, the West has complained and the odd separatist movement has arisen, but I think that once Nova Scotia's or Newfoundland's oil production gets up to half a million barrels a day, we might see a separatist movement in those areas, too. I do not know what it is about oil that makes people decide that they want to separate from everyone else.

Nova Scotia and much of the Maritimes have assets underneath the sea floor that far exceed the area and the size of the country itself, whereas Alberta and Manitoba are restricted only to what is seen on the map. Whether it is manganese, iron ore or other resources, we must realize that Newfoundland and

Nova Scotia go halfway to Bermuda and halfway to Ireland. Marine geology is my occupation. The Maritimes and the North will be fabulously rich over the next generation or two. When they become a plus factor in Confederation, when they put more money in than they take out, we may well no longer see Western alienation. Instead, all we will see is provincial alienation. When provinces feel alienated in a confederation, the confederation may be adjusted. On the other hand, a confederation that is working properly should possibly have alienation. It may be impossible to have 10 provinces all saying, "Canada is a lovely place; aren't we glad we were born here." Like the planetary system, a certain amount of centrifugal force is needed to balance the gravitational force to get a planet in movement.

Honourable senators, I will finish off by saying that, first, Western alienation is not as great as reported in the newspapers. Second, a certain amount of alienation may be necessary for a good federation and for good political debate. Actually, things are not too bad.

**The Hon. the Speaker *pro tempore*:** If no other senator wishes to speak, honourable senators, this inquiry shall be considered debated.

## DEFERRED MAINTENANCE COSTS IN CANADIAN POST-SECONDARY INSTITUTIONS

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary institutions. —(*Honourable Senator Gauthier*).

Leave having been given to revert to Inquiry No. 2:

**Hon. Serge Joyal:** Honourable senators, I should like to thank Senator Kinsella for his interest in the subject raised by our colleague Senator Moore on this important issue. Senator Moore has been calling the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary institutions.

[*Translation*]

Senator Moore is drawing our attention to the important matter of maintenance costs in Canada's post-secondary educational institutions.

[*English*]

Honourable senators know that, especially in the last four years, there have been a large number of initiatives stemming from federal and provincial governments in support of post-secondary education in Canada. I should like to remind honourable senators of the recent announcement of the increased money in support of the Centres of Excellence.



• (1640)

I return to that first point about Centres of Excellence in Canadian universities because it is a program I initiated myself when I was Secretary of State. This program, which has been existence now for more than 17 years, has produced an immense contribution in strengthening the network of Centres of Excellence in Canadian universities.

Looking into the report, with respect to the number of universities and researchers involved in the Centres of Excellence, in New Brunswick, there are two Centres of Excellence; in Quebec, 13; in British Columbia, 14; in Ontario, seven. That program has more than 5,075 researchers, 98 universities and 563 private sector companies participating in the network. Today, the program represents more than \$77 million of federal money, not counting, of course, the contribution drawn from the private sector. This federal government program is just one in support of higher education. To that program we have to add the Canadian Fund for Innovation that was established in 1997. That program has diverted \$40 million specifically to the universities. It is not a program addressed only to universities; however, \$40 million of its overall budget is made available essentially to universities. I would like to remind you of the objectives of that \$40 million.

[Translation]

The primary objective of the Canadian Foundation for Innovation is, first, to fund activities aimed at the discovery of new knowledge and, second, to develop new knowledge of facts or data, or new applications for existing knowledge.

[English]

This program does not cover only social science or scientific research. It covers the whole the spectrum of university activities: social science, natural science, engineering, health, environment, the whole spectrum of modern science. This program is used for the infrastructure of universities. In other words, it is not a program that grants financial support to pay only for the lateral cost of salaries and administration, but it is also used to improve laboratories, buy equipment and get the necessary tools for the modern adaptation of universities to the needs of innovation. The very heading of the program is centred on innovation. That program is complemented by another important program called Les Chaires de recherche dans les universités du Canada. In the government budget of the year 2000, \$900 million has been set aside for the establishment by 2005 of 2,000 chairs of research in universities. \$900 million in four years is an enormous amount of money. It is more than that of the Centres of Excellence and the Canadian Funds for Innovation together in a single year. That money coming from the budget has been complemented by additional initiatives from the federal government in support of students. I would remind

honourable senators of the announcement of previous budgets in support only of students.

[Translation]

The study credit doubled the credit for advanced studies over two years. There was the education amount credit on the tax return. This credit is not just for tuition fees, but also for the additional mandatory fees imposed by post-secondary institutions. As well, unused credits can be carried over.

[English]

There has been a whole set of budgetary measures in support of the students themselves, but that is not all. Among the other expenses of the federal government with respect to post-secondary institutions are all the activities and enrichment of the National Research Council. This chamber, especially, has written a page of history. You will remember when senators on both sides united some years ago to defeat a motion that would have joined two national research councils. I will mention all the research councils that answer the needs of universities.

[Translation]

They are the Natural Sciences and Engineering Research Council, the Canadian Institutes for Health Research, the Canada Council, the Health Services Research Foundation, the Canadian Race Relations Foundation, and the Canadian Foundation for Innovation.

[English]

A plethora of initiatives in the last five years stemming from the federal government has established and touched a wide variety of initiatives in the university. However, it does not seem to be enough to answer the needs of innovation.

While we were adjourned last week, a report was published on May 25 that said there is some truth to the notion that Canadians are a somewhat plodding and not creative people. It suggested the traditional Canadian approach to the problem is to establish a new commission to come up with a proposal to stimulate creativity in the universities. One of the recommendations is to oblige Canadian universities to create more interdisciplinary courses and multidisciplinary approaches to research problems. In other words, we are faced with a global world where we have contributed, 20 years ago, to network universities and faculty among Canada, to network researchers, to give students better access to universities and especially post graduate studies. Last week we are faced with a report that calls upon all the groups in the research community in Canada to review together their overall creativity capacity, and it does not seem to be enough. As Senator Moore put forward in his motion, there are maintenance costs that do not appear in any of those programs that do not give to the university structure the whole of its capacity to face the world competition today.

We learned last week that the white paper on research and development the government was to publish this month has been postponed to next April. That white paper was supposed to define the following:

[Translation]

A strategy for research and development, investments in new technologies, worker training and adult education.

[English]

In other words, next fall, both chambers will be called, and, singularly, our chamber, to discuss and debate that white paper that deals specifically with research and development. Honourable senators, at that point in the time, we have to know what the right hand and the left hand are doing in order to have a global picture in terms of the impact of those expenses. They are made available with the best intentions, and they had success in the community from the answers we got from participants. On the other hand, are they enough? Are they well coordinated enough to be able to meet the objectives of strengthening the community and covering, as Senator Moore has said, the emerging cost or issue of maintenance in universities?

• (1650)

We cannot only single out targeted initiatives and not question ourselves about the status of the whole. If we do, we will jeopardize the overall capacity of our researchers to ensure that the system develops in a coherent way.

Of course that is inseparable from the responsibility of the federal government in higher education. We all know that in Quebec in particular this is a very sensitive issue. Every time the federal government makes a proposal, of necessity, it implies federal-provincial discussion and agreement. There is no doubt about that. The objective of the federal and provincial governments, especially as it relates to research and development, and the development of the capacity of universities and their competitiveness, is an objective that is shared on different footings by both levels of government. One government is the deliverer of services, while the other is the provider of the opportunities.

In that context, the inquiry of Senator Moore and his motion which appears elsewhere on the Order Paper deal with important issues, because next fall we will have the opportunity to debate that white paper which is supposed to shape and frame the overall government agenda for the next four or five years. There is no doubt that honourable senators on both sides, based on our respective experiences on this issue, will want to address how to ensure that the whole system is strengthened in a way that we can face world competition to attract and keep the brains of this country. That, too, is inseparable from the brain drain. The brain drain is not essentially a question of dollars, it is a question of the opportunities given to researchers to do research. A researcher who wants to complete a project will first ask himself or herself: What is the quality of the infrastructure that a university

provides? What is the achievement of that university in that domain? What support do colleagues provide to that university? What are the complementary facilities in support of their research? What is the receptivity to the research work?

Senator Moore has raised a most important issue. Our debate will help us better understand all that is involved in the strengthening of the university system in Canada.

I would thank my honourable colleagues for their attention. This is an important issue for every Canadian.

[Translation]

Each Quebecer is concerned, all the more so as the academic network is one of the structuring forces in a society. A high dropout rate, one approaching 48 per cent, for example, poses a huge problem for a society if it wishes to remain competitive.

It is a formidable challenge for a society to attract researchers and develop research potential. Universities are a structuring force in our society, because they appeal to humanity's most noble feature, its ability to increase its knowledge, to push back the boundaries of the unknown. This is an extremely noble calling.

As members of the government, we are aware of the role we must play in this area. We must play that role while maintaining the essential requirements of this system, what they imply, and scrupulously respecting the jurisdiction of each level of government.

As we know today, the networks rely on synergy. They can no longer evolve separately. Universities across Canada are happy to be able to rely on each other when they share a basic research objective. The success of the centres of excellence over the past 17 years is a striking testimony to this cooperation. All the researchers we have met in the various areas of research have told us how happy they are to be able to count on the support of the research community.

This community is not, by definition, compartmentalized. Research and development know no provincial boundaries. Knowledge seeks out knowledge.

Senator Moore's motion gives rise to a reflection, the purpose of which is to raise the level of debate in this regard.

[English]

I am grateful that honourable senators have allowed me to make my contribution this afternoon in order that we may move forward with the debate as proposed by Senator Moore.

**Hon. Noël Kinsella (Deputy Leader of the Opposition):** Honourable senators, I wish to ask a couple of questions of Senator Joyal. Does the honourable senator think that we should make an important distinction between where, under the funding councils, such as NSERC or the Social Sciences and Humanities Research Council, which fund excellent research —



**The Hon. the Speaker *pro tempore*:** Honourable Senator Kinsella, I am sorry to interrupt, but Senator Joyal's time has expired. Is the Honourable Senator Joyal asking for additional time to continue his remarks?

**Senator Joyal:** Yes, Your Honour.

[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

[English]

**Senator Kinsella:** Honourable senators, there is an important distinction to be made between funding excellent research through the funding councils, and whatever program we come up with to respond to the issue raised by Senator Moore, which is deferred maintenance of Canadian universities. My hypothesis is that this deferred maintenance, which has been calculated to be in the billions of dollars, reflects not excellence in the management of our universities, but abject failure. They failed to replace roofs when new roofs were needed. Some universities did not put extra acquisitions in their libraries, or did not hire an extra professor when they needed a roof. They were the good managers. Are we to have a program which, effectively, will reward the poor managers and, in a sense, punish the good managers?

The honourable senator has drawn our attention to what the funding councils have done. I agree that they have done good work. However, they have been funding excellence. If we were to have a program to deal with deferred maintenance costs, we would have to be very careful in the drafting of it so that we are not rewarding failed managers. Would the honourable senator comment, please?

**Senator Joyal:** I thank the Honourable Senator Kinsella for his questions. He is absolutely correct. We cannot think of creating an elitist system that will only reward excellence while at the same time leaving the overall infrastructure in a crumbling state. On the other hand, when the federal government addresses itself to the specific issue of maintaining, on a sound and healthy basis, a system of higher education, or post-secondary education, it must cover many expenses that are not targeted directly by one of the other programs that I have mentioned.

I have pointed out that the Foundation for Canadian Innovation has, as an element of its budget, provisions for infrastructure and equipment. Of course, that addresses itself not only to specific projects but also to the overall infrastructure. There is no doubt, in the context of the white paper to which I have referred, that one of its recommendations is to strengthen the overall capacity of universities, not only the elitist aspects of research and development. I think universities also have a mission of passing on knowledge and of educating. Undergraduate university students in the course of completing

their primary degree are exposed to only limited research. It is only when students are at higher levels of study that research becomes an important and targeted priority. That has to be addressed, too.

• (1700)

The white paper will deal with the capacity of the Canadian economy and the Canadian system to meet the challenges of global competition without attempting to manage the universities *per se*. We should not aim for that. We should share knowledge that the universities, in cooperation with the provinces, will give to the federal government. It is only in that context that we can have a program that will address the defined priorities.

To draw a parallel, I would compare it to the federal-provincial-municipal program on infrastructure that deals with priorities defined by the provinces and administered by the municipalities. We are one-third partners in those initiatives.

It is possible to devise a program that would meet the concerns of the provinces about their jurisdiction in higher education and respect the priorities of the universities while ensuring that the entire country is able to address the issue of the maintenance costs of universities.

**Senator Kinsella:** I am glad to hear the honourable senator make reference to a different model, namely, the federal-provincial-municipal collaborative process. In the course of his speech, he drew our attention to the chairs of studies program. I wonder whether Senator Joyal would agree that this might not be a very good model to follow in terms of funding, for a variety of reasons. First, in terms of effect, the University of Toronto received around 267 chairs. The University of New Brunswick received 17. The immediate problem with that is that it does not seem to follow the generalized principle of equalization contained in section 36 of our Constitution.

Would the honourable senator not agree that we must take into consideration the availability of private endowment monies in centres such as Toronto? I believe that the endowment fund of the University of Toronto contains over \$1 billion. Universities in some parts of country have much greater access to private endowment funds. There are many explanations for why the University of Toronto has 267 endowed chairs and the University of New Brunswick has 17. However, I am considering the results. If an infrastructure fund were developed to deal with deferred maintenance based on the same formula as used for chairs, the rich will get richer again. Whatever formula is used, it cannot be the same as that used for chairs of studies.

Is it not true that the chairs of studies were, in part, based upon how many grants the respective universities received under NSERC, the Social Sciences and Humanities Research Council and the Medical Research Council? It was almost a closed shop. When the honourable senator made reference to chairs, was he suggesting that this is the kind of funding mechanism that may be put in place to deal with deferred maintenance?

**Senator Joyal:** Certainly not, honourable senators. I have before me a list of all the chairs and the projects that have been funded in the various provinces by the Canada Foundation for Innovation and the chairs of studies program.

In Ontario, 434 projects have been funded for a total of \$311 million. That is an enormous amount of money. In New Brunswick, 28 projects have been funded for a total of \$5 million. We can see the inequality, which is not only based on the inequality of population.

In devising a program to specifically address deferred maintenance costs, we must take into account what is spent in various other programs so that the right hand knows what the left hand is doing. I am not suggesting that we should use the same formula as we use for NSERC, the Centres of Excellence, the innovation foundation or the chairs of studies programs. All of those programs have something in common.

It will probably be stated that through Canadian social transfers, which we have been debating recently, the federal government already provides provincial governments with the capacity to deal with maintenance costs. However, we all know what has happened in past years. We could have a separate debate on the impact of cutbacks in the last 10 years on the operation of our system. We must address this issue from the perspective of the overall impact of the various programs and the inequities of the system because that is a fundamental principle

of our federation, as Senator Buchanan has said. What was the purpose of entrenching the principle of equalization in 1982? We wanted to ensure that there was equal opportunity in essential services — education, health and social services being some that we had in mind at the time. We must keep that in mind when addressing the inequities currently in the system. This is the fundamental philosophical principle underlying the intervention of the federal government.

Any program that addresses itself to the inequality of the capacity of the provinces must be very sensitive to that reality. I am not suggesting that we deal with the issue by rewarding elitism. Common needs can be answered on common grounds, but we must go beyond that, which the federal government does in various ways. However, we know that common needs are not addressed in the same way in provinces that do not receive equalization payments and those that do and that rely on them to maintain a comparative level. We all know that.

Next fall, honourable senators, when we discuss the principle on which the strength of Canadian society is based, that being the higher education system, that must be taken into account.

On motion of Senator Robichaud, for Senator Gauthier, debate adjourned.

The Senate adjourned until Wednesday, June 6, 2001, at 1:30 p. m.





## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate



**THE SPEAKER**

THE HONOURABLE DANIEL P. HAYS

**THE LEADER OF THE GOVERNMENT**

THE HONOURABLE SHARON CARSTAIRS. P.C.

**THE LEADER OF THE OPPOSITION**

THE HONOURABLE JOHN LYNCH-STANTON

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**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

**DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES**

GARY O'BRIEN

**LAW CLERK AND PARLIAMENTARY COUNSEL**

MARK AUDCENT

**USHER OF THE BLACK ROD**

MARY McLAREN

**THE MINISTRY**

According to Precedence

(June 5, 2001)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Brian Tobin	Minister of Industry
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Minister of Foreign Affairs
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Martin Cauchon	Minister of National Revenue and Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. Lyle Vanclief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Fisheries and Oceans
The Hon. Ronald J. Duhamel	Minister of Veterans Affairs and Secretary of State (Western Economic Diversification) (Francophonie)
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Maria Minna	Minister for International Cooperation
The Hon. Elinor Caplan	Minister for Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Gilbert Normand	Secretary of State (Science, Research and Development)
The Hon. Denis Coderre	Secretary of State (Amateur Sport)
The Hon. Rey Pagtakhan	Secretary of State (Asia-Pacific)



## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(June 5, 2001)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Jean-Maurice Simard	Edmundston	Edmundston, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
Mabel Margaret DeWare	Moncton	Moncton, N.B.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Winnipeg, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
Erminie Joy Cohen	New Brunswick	Saint John, N.B.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.

## ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Bon Accord, Alta.
Léonce Mercier	Mille Isles	Saint-Élie d'Orford, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Sheila Finestone, P.C.	Montarville	Montreal, Que.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Marie Cordy	Nova Scotia	Dartmouth, N.S.
Raymond C. Setlakwe	The Laurentides	Thetford Mines, Que.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Jim Tunney	Ontario	Grafton, Ont.



## SENATORS OF CANADA

## ALPHABETICAL LIST

(June 5, 2001)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andrychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérald-A.	Rigaud	Hull, Que.	PC
Bolduc, Roch	Gulf	Sainte-Foy, Que.	PC
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.	PC
Cohen, Erminie Joy	New Brunswick	Saint John, N.B.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland	St. John's, Nfld.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane Marie	Nova Scotia	Dartmouth, N.S.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
DeWare, Mabel Margaret	Moncton	Moncton, N.B.	PC
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.	PC
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finestone, Sheila, P.C.	Montarville	Montreal, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Johnson, Janis G.	Winnipeg-Interlake	Winnipeg, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib

## SENATORS OF CANADA

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Mercier, Léonce	Mille Isles	Saint-Élie d'Orford, Que.	Lib
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauzon	Quebec, Que.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James.	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Setlakwe, Raymond C.	The Laurentides	Thetford Mines, Que.	Lib
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Simard, Jean-Maurice	Edmundston	Edmundston, N.B.	PC
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Taylor, Nicholas William	Sturgeon	Bon Accord, Alta.	Lib
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Tunney, Jim	Ontario	Grafton, Ont.	Lib
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.	Ind



**SENATORS OF CANADA**  
**BY PROVINCE AND TERRITORY**

(June 5, 2001)

**ONTARIO—24**

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C. ....	Pakenham .....	Ottawa
2 Peter Alan Stollery .....	Bloor and Yonge .....	Toronto
3 Peter Michael Pitfield, P.C. ....	Ottawa-Vanier .....	Ottawa
4 Jeremiah S. Grafstein .....	Metro Toronto .....	Toronto
5 Anne C. Cools .....	Toronto-Centre-York .....	Toronto
6 Colin Kenny .....	Rideau .....	Ottawa
7 Norman K. Atkins .....	Markham .....	Toronto
8 Consiglio Di Nino .....	Ontario .....	Downsview
9 James Francis Kelleher, P.C. ....	Ontario .....	Sault Ste. Marie
10 John Trevor Eyton .....	Ontario .....	Caledon
11 Wilbert Joseph Keon .....	Ottawa .....	Ottawa
12 Michael Arthur Meighen .....	St. Marys .....	Toronto
13 Marjory LeBreton .....	Ontario .....	Manotick
14 Landon Pearson .....	Ontario .....	Ottawa
15 Jean-Robert Gauthier .....	Ottawa-Vanier .....	Ottawa
16 Lorna Milne .....	Peel County .....	Brampton
17 Marie-P. Poulin .....	Northern Ontario .....	Ottawa
18 The Very Reverend Dr. Lois M. Wilson .....	Toronto .....	Toronto
19 Francis William Mahovlich .....	Toronto .....	Toronto
20 Vivienne Poy .....	Toronto .....	Toronto
21 Isobel Finnerty .....	Ontario .....	Burlington
22 Jim Tunney .....	Ontario .....	Grafton
23 .....	.....	.....
24 .....	.....	.....

## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber .....	Victoria .....	Westmount
2 Charlie Watt .....	Inkerman .....	Kuujuuaq
3 Pierre De Bané, P.C. ....	De la Vallière .....	Montreal
4 Roch Bolduc .....	Gulf .....	Sainte-Foy
5 Gérard-A. Beaudoin .....	Rigaud .....	Hull
6 John Lynch-Staunton .....	Grandville .....	Georgeville
7 Jean-Claude Rivest .....	Stadacona .....	Quebec
8 Marcel Prud'homme, P.C. ....	La Salle .....	Montreal
9 W. David Angus .....	Alma .....	Montreal
10 Pierre Claude Nolin .....	De Salaberry .....	Quebec
11 Lise Bacon .....	De la Durantaye .....	Laval
12 Céline Hervieux-Payette, P.C. ....	Bedford .....	Montreal
13 Shirley Maheu .....	Rougemont .....	Ville de Saint-Laurent
14 Léonce Mercier .....	Mille Isles .....	Saint-Élie d'Orford
15 Lucie Pépin .....	Shawinigan .....	Montreal
16 Marisa Ferretti Barth .....	Repentigny .....	Pierrefonds
17 Serge Joyal, P.C. ....	Kennebec .....	Montreal
18 Joan Thorne Fraser .....	De Lorimier .....	Montreal
19 Aurélien Gill .....	Wellington .....	Mashteuiatsh, Pointe-Bleue
20 Sheila Finestone, P.C. ....	Montarville .....	Montreal
21 Raymond C. Setlakwe .....	The Laurentides .....	Thetford Mines
22 Yves Morin .....	Lauzon .....	Quebec
23 .....	.....	.....
24 .....	.....	.....



## SENATORS BY PROVINCE—MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Marie Cordy	Nova Scotia	Dartmouth
9		
10		

## NEW BRUNSWICK—10

THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Jean-Maurice Simard	Edmundston	Edmundston
4 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
5 Mabel Margaret DeWare	Moncton	Moncton
6 Erminie Joy Cohen	New Brunswick	Saint John
7 John G. Bryden	New Brunswick	Bayfield
8 Rose-Marie Losier-Cool	Tracadie	Bathurst
9 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
10		

## PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4		

## SENATORS BY PROVINCE—WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak .....	Manitoba .....	Winnipeg
2 Janis G. Johnson .....	Winnipeg-Interlake .....	Winnipeg
3 Terrance R. Stratton .....	Red River .....	St. Norbert
4 Sharon Carstairs, P.C. ....	Manitoba .....	Victoria Beach
5 Richard H. Kroft .....	Manitoba .....	Winnipeg
6 .....		

## BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson .....	Vancouver .....	Vancouver
2 Jack Austin, P.C. ....	Vancouver South .....	Vancouver
3 Pat Carney, P.C. ....	British Columbia .....	Vancouver
4 Gerry St. Germain, P.C. ....	Langley-Pemberton-Whistler ..	Maple Ridge
5 Ross Fitzpatrick .....	Okanagan-Similkameen .....	Kelowna
6 .....		

## SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow .....	Saskatchewan .....	North Battleford
2 A. Raynell Andreychuk .....	Regina .....	Regina
3 Leonard J. Gustafson .....	Saskatchewan .....	Macoun
4 David Tkachuk .....	Saskatchewan .....	Saskatoon
5 John Wiebe .....	Saskatchewan .....	Swift Current
6 .....		

## ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i> .....	Calgary .....	Calgary
2 Joyce Fairbairn, P.C. ....	Lethbridge .....	Lethbridge
3 Nicholas William Taylor .....	Sturgeon .....	Bon Accord
4 Thelma J. Chalifoux .....	Alberta .....	Morinville
5 Douglas James Roche .....	Edmonton .....	Edmonton
6 Tommy Banks .....	Alberta .....	Edmonton



## SENATORS BY PROVINCE AND TERRITORY

## NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6		

## NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

## NUNAVUT—1

THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

## YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

## ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of June 5, 2001)

\*Ex Officio Member

## ABORIGINAL PEOPLES

**Chair: Honourable Senator Chalifoux**  
**Honourable Senators:**

Carney	Christensen,
*Carstairs (or Robichaud)	Cochrane,
Chalifoux,	Gill,
	Hubley,

**Deputy Chair: Honourable Senator Johnson**

Johnson,	Rompkey,
*Lynch-Staunton, (or Kinsella)	Sibbeston,
Pearson,	St. Germain,
	Tkachuk.

*Original Members as nominated by the Committee of Selection*

*Carney, \*Carstairs (or Robichaud), Chalifoux, Christensen, Cochrane, Cordy, Gill, Johnson, \*Lynch-Staunton (or Kinsella), Pearson, Rompkey, Sibbeston, Tkachuk, Wilson.*

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SUBCOMMITTEE ON ABORIGINAL ECONOMIC DEVELOPMENT IN RELATION  
TO NORTHERN NATIONAL PARKS**Chair: Honourable Senator Christensen**  
**Honourable Senators:**

*Carstairs (or Robichaud)	Christensen,
Chalifoux,	Cochrane,

**Deputy Chair: Honourable Senator Cochrane**

Johnson,	Sibbeston.
*Lynch-Staunton, (or Kinsella)	

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## AGRICULTURE AND FORESTRY

**Chair: Honourable Senator Gustafson**  
**Honourable Senators:**

*Carstairs (or Robichaud)	Gill,
Chalifoux,	Gustafson,
Fairbairn,	Hubley,

**Deputy Chair: Honourable Senator Wiebe**

LeBreton,	Stratton,
*Lynch-Staunton, (or Kinsella)	Tkachuk,
Oliver,	Tunney,
	Wiebe.

*Original Members as nominated by the Committee of Selection*

*\*Carstairs (or Robichaud), Chalifoux, Fairbairn, Fitzpatrick, Gill, Gustafson, LeBreton, \*Lynch-Staunton (or Kinsella), Milne, Oliver, Stratton, Taylor, Tkachuk, Wiebe.*

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**BANKING, TRADE AND COMMERCE**

**Chair:** Honourable Senator Kolber  
**Honourable Senators:**

Angus,	Hervieux-Payette,
*Carstairs,	Kelleher,
(or Robichaud)	Kolber,
Furey,	Kroft,

**Deputy Chair:** Honourable Senator Tkachuk

*Lynch-Staunton,	Poulin,
(or Kinsella)	Setlakwe,
Meighen,	Tkachuk,
Oliver,	Wiebe.

*Original Members as nominated by the Committee of Selection*

Angus, \*Carstairs (or Robichaud), Furey, Hervieux-Payette, Kelleher, Kolber, Kroft,  
 \*Lynch-Staunton (or Kinsella), Meighen, Oliver, Poulin, Setlakwe, Tkachuk., Wiebe.

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**DEFENCE AND SECURITY**

**Chair:** Honourable Senator Kenny  
**Honourable Senators:**

Atkins,	Cordy,
*Carstairs,	Forrestall,
(or Robichaud)	Hubley,

**Deputy Chair:** Honourable Senator Forrestall

Kenny,	Pépin,
*Lynch-Staunton,	Rompkey,
(or Kinsella)	Wiebe.
Meighen,	

*Original Members as nominated by the Committee of Selection*

Atkins, \*Carstairs (or Robichaud), Cordy, Forrestall, Hubley, Kenny,  
 \*Lynch-Staunton (or Kinsella), Meighen, Pépin, Rompkey, Wiebe.

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**ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES**

**Chair:** Honourable Senator Taylor  
**Honourable Senators:**

Adams,	Christensen,
Banks,	Cochrane,
Buchanan,	Eyton,
*Carstairs,	Finnerty,
(or Robichaud)	

**Deputy Chair:** Honourable Senator Spivak

Kelleher,	Sibbeston,
Kenny,	Spivak,
*Lynch-Staunton,	Taylor.
(or Kinsella)	

*Original Members as nominated by the Committee of Selection*

Banks, Buchanan, \*Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty,  
 Kelleher, Kenny, \*Lynch-Staunton (or Kinsella), Sibbeston, Spivak, Taylor, Watt.

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**FISHERIES****Chair: Honourable Senator Comeau****Honourable Senators:**

Adams, Chalifoux,  
 Callbeck, Comeau,  
 Carney, Cook,  
 \*Carstairs,  
 (or Robichaud)

**Deputy Chair: Honourable Senator Cook**

\*Lynch-Staunton, Moore,  
 (or Kinsella) Robertson,  
 Mahovlich, Watt,  
 Meighen,

*Original Members as nominated by the Committee of Selection*

Adams, Callbeck, Carney, \*Carstairs (or Robichaud), Chalifoux, Comeau, Cook,  
 \*Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Molgat, Moore, Robertson, Watt.

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**FOREIGN AFFAIRS****Chair: Honourable Senator Stollery****Honourable Senators:**

Andreychuk, \*Carstairs,  
 Austin, (or Robichaud)  
 Bolduc, Corbin,  
 Carney, De Bané,

**Deputy Chair: Honourable Senator Andreychuk**

Di Nino, \*Lynch-Staunton,  
 Grafstein, (or Kinsella)  
 Graham, Setlakwe,  
 Losier-Cool, Stollery.

*Original Members as nominated by the Committee of Selection*

Andreychuk, Austin, Bolduc, Carney, \*Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein,  
 Graham, Losier-Cool, \*Lynch-Staunton (or Kinsella), Poulin, Stollery.

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**HUMAN RIGHTS****Chair: Honourable Senator Andreychuk****Honourable Senators:**

Andreychuk, Ferretti Barth,  
 Beaudoin, Finestone,  
 \*Carstairs, Kinsella,  
 (or Robichaud)

**Deputy Chair: Honourable Senator Finestone**

\*Lynch-Staunton, Poy,  
 (or Kinsella) Watt,  
 Oliver, Wilson.

*Original Members as nominated by the Committee of Selection*

Andreychuk, Beaudoin, \*Carstairs (or Robichaud), Ferretti Barth, Finestone,  
 Kinsella, \*Lynch-Staunton (or Kinsella), Oliver, Poy, Watt, Wilson.

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## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

<b>Chair:</b>	<b>Honourable Senator Kroft</b>	<b>Deputy Chair:</b>	<b>Honourable Senator DeWare</b>
<b>Honourable Senators:</b>			
Austin,	DeWare,	Kenny,	Milne,
*Carstairs, (or Robichaud)	Doody,	Kroft,	Murray,
Comeau,	Forrestall,	*Lynch-Staunton, (or Kinsella)	Poulin,
De Bané,	Furey,	Maheu,	Stollery.
	Gauthier,		

*Original Members as nominated by the Committee of Selection*

*Austin, \*Carstairs (or Robichaud), Comeau, De Bané, DeWare, Doody, Forrestall, Furey, Gauthier, Kenny, Kroft, \*Lynch-Staunton (or Kinsella), Maheu, Milne, Murray, Poulin, Stollery.*

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## LEGAL AND CONSTITUTIONAL AFFAIRS

<b>Chair:</b>	<b>Honourable Senator Milne</b>	<b>Deputy Chair:</b>	<b>Honourable Senator Beaudoin</b>
<b>Honourable Senators:</b>			
Andreychuk,	*Carstairs, (or Robichaud)	Grafstein,	Milne,
Atkins,		Joyal,	Moore,
Beaudoin,	Cools,	*Lynch-Staunton,	Nolin,
Buchanan,	Fraser,	(or Kinsella)	Pearson.

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Atkins, Beaudoin, Buchanan, \*Carstairs (or Robichaud), Cools, Fraser, Grafstein, Joyal, \*Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson.*

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## LIBRARY OF PARLIAMENT (Joint)

<b>Chair:</b>	<b>Honourable Senator Bryden</b>	<b>Deputy Chair:</b>	
<b>Honourable Senators:</b>			
Beaudoin,	Cordy,	Oliver,	Poy.
Bryden,			

*Original Members agreed to by Motion of the Senate*

*Beaudoin, Bryden, Cordy, Oliver, Poy.*

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## NATIONAL FINANCE

**Chair:** Honourable Senator Murray  
**Honourable Senators:**

Banks,	Comeau,
Bolduc,	Cools,
*Carstairs, (or Robichaud)	Doody,
	Ferretti Barth.

**Deputy Chair:** Honourable Senator Finnerty

Finnerty,	Murray,
*Lynch-Staunton, (or Kinsella)	Stratton,
Mahovlich,	Tunney.

*Original Members as nominated by the Committee of Selection*

*Banks, Bolduc, \*Carstairs (or Robichaud), Cools, Doody, Finnerty, Ferretti Barth, Hervieux-Payette, Kinsella, Kirby, \*Lynch-Staunton (or Kinsella), Mahovlich, Murray, Stratton.*

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## OFFICIAL LANGUAGES (Joint)

**Chair:** Honourable Senator Maheu  
**Honourable Senators:**

Beaudoin,	Gauthier,
Fraser,	Losier-Cool,

**Deputy Chair:**

Maheu,	Rivest,
Mahovlich,	Simard.

*Original Members agreed to by Motion of the Senate*

*Bacon, Beaudoin, Fraser, Gauthier, Losier-Cool, Maheu, Rivest, Setlakwe, Simard.*

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## PRIVILEGES, STANDING RULES AND ORDERS

**Chair:** Honourable Senator Austin  
**Honourable Senators:**

Andreychuk,	DeWare,
Austin,	Di Nino,
Bryden,	Gauthier,
*Carstairs, (or Robichaud)	Grafstein,

**Deputy Chair:** Honourable Senator Stratton

Joyal,	Murray,
Kroft,	Pitfield,
Losier-Cool,	Poulin,
*Lynch-Staunton, (or Kinsella)	Rossiter, Stratton.

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Austin, Bryden, \*Carstairs (or Robichaud), DeWare, Di Nino, Gauthier, Grafstein, Hervieux-Payette, Joyal, Kroft, Losier-Cool, \*Lynch-Staunton (or Kinsella), Murray, Poulin, Rossiter, Stratton.*

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### SCRUTINY OF REGULATIONS (Joint)

**Chair:** Honourable Senator Hervieux-Payette

**Deputy Chair:**

**Honourable Senators:**

Bryden,

Finestone,

Kinsella,

Nolin.

Hervieux-Payette,

Moore,

*Original Members agreed to by Motion of the Senate*

*Bacon, Bryden, Finestone, Hervieux-Payette, Kinsella, Moore, Nolin.*

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### SELECTION

**Chair:** Honourable Senator Mercier

**Deputy Chair:**

**Honourable Senators:**

Austin,

DeWare,

Kinsella,

Mercier,

\*Carstairs,

Fairbairn,

LeBreton,

Robertson.

(or Robichaud)

Graham,

\*Lynch-Staunton,  
(or Kinsella)

Corbin,

*Original Members agreed to by Motion of the Senate*

*Austin, \*Carstairs (or Robichaud), Corbin, DeWare, Fairbairn, Graham, Kinsella  
LeBreton, \*Lynch-Staunton (or Kinsella), Mercier, Murray.*

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### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

**Chair:** Honourable Senator Kirby

**Deputy Chair:** Honourable Senator LeBreton

**Honourable Senators:**

Callbeck,

Cook,

Kirby,

Pépin,

\*Carstairs,

Cordy,

LeBreton,

Roberston,

(or Robichaud)

Fairbairn,

\*Lynch-Staunton,  
(or Kinsella)

Roche.

Cohen,

Graham,

*Original Members as nominated by the Committee of Selection*

*Callbeck, \*Carstairs (or Robichaud), Cohen, Cook, Cordy, Fairbairn, Graham, Johnson,  
Kirby, LeBreton, \*Lynch-Staunton (or Kinsella), Pépin, Robertson, Roche.*

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**SUBCOMMITTEE ON PRESERVATION AND  
PROMOTION OF A SENSE OF CANADIAN COMMUNITY**

<b>Chair:</b>			
<b>Honourable Senators:</b>	<b>Deputy Chair:</b>		
*Carstairs, (or Robichaud)	Cordy,	LeBreton,	Robertson.
Cook,	Kirby,	*Lynch-Staunton, (or Kinsella)	

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**TRANSPORT AND COMMUNICATIONS**

<b>Chair:</b>			
<b>Honourable Senator Bacon</b>	<b>Deputy Chair: Honourable Senator Forrestall</b>		
Adams,	Eyton,	Forrestall,	Morin,
Bacon,	Finestone,	Gill,	Rompkey,
Callbeck,	Fitzpatrick,	*Lynch-Staunton, (or Kinsella)	Spivak.
*Carstairs, (or Robichaud)			

*Original Members as nominated by the Committee of Selection*

*Adams, Angus, Bacon, Callbeck, \*Carstairs (or Robichaud), Christensen, Eyton, Finestone, Fitzpatrick, Forrestall, \*Lynch-Staunton (or Kinsella), Rompkey, Setlakwe, Spivak.*

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**THE SPECIAL SENATE COMMITTEE ON ILLEGAL DRUGS**

<b>Chair:</b>			
<b>Honourable Senator Nolin</b>	<b>Deputy Chair: Honourable Senator Kenny</b>		
Banks,	Kenny,	*Lynch-Staunton, (or Kinsella)	Nolin,
*Carstairs, (or Robichaud)		Maheu,	Rossiter.

*Original Members as agreed to by Motion of the Senate*

*Banks, \*Carstairs (or Robichaud), Kenny, \*Lynch-Staunton (or Kinsella), Maheu, Nolin, Rossiter.*

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# CONTENTS

Tuesday, June 5, 2001

PAGE

PAGE

## Visitors in the Gallery

The Hon. the Speaker ..... 997

## SENATORS' STATEMENTS

### The Honourable Dan Hays and Kathy Campbell

Congratulations on Marriage. Senator Fairbairn ..... 997

### Palliative Care

Senator Carstairs ..... 997

### China

Twelfth Anniversary of Tiananmen Square Massacre.  
Senator Di Nino ..... 998

### Evolution of Role of Women in Armed Forces

Senator Pépin ..... 998

### The Late Margaret Rompkey

Tribute. Senator Cook ..... 998

### Day of Memory for Raoul Wallenberg

Senator Wilson ..... 999

Senator Finestone ..... 999

## ROUTINE PROCEEDINGS

### Broadcasting Act (Bill S-7)

Bill to Amend—Report of Committee. Senator Bacon ..... 1000

### Adjournment

Senator Robichaud ..... 1000

### Canada-China Legislative Association

Third Bilateral Meeting, March 2001—  
Report of Canadian Delegation Tabled.  
Senator Austin ..... 1000

### Canadian NATO Parliamentary Association

Meeting of Standing Committee and Secretaries of  
National Delegations, March 30-April 1, 2001—  
Report of Canadian Delegation Tabled.  
Senator Nolin ..... 1000

### National Finance

Notice of Motion to Authorize Committee to Meet  
During Sitting of the Senate. Senator Murray ..... 1000

### Afghanistan

Decree Requiring Non-Muslims to Wear Special  
Identification—Notice of Inquiry. Senator Finestone ..... 1001

## QUESTION PERIOD

### The Senate

Announcement of Meeting of Committee of the  
Whole on Maritime Helicopter Project.

Senator Carstairs ..... 1001

Senator Lynch-Staunton ..... 1001

### National Defence

Annual Report of Office of the Ombudsman. Senator Atkins .... 1001

Senator Carstairs ..... 1001

### The Senate

Meeting of Committee of the Whole on Maritime  
Helicopter Project. Senator Forrestall ..... 1001

Senator Carstairs ..... 1001

### National Defence

Replacement of Sea King Helicopters—Risk Analysis  
Prior to Splitting Procurement Process. Senator Forrestall .... 1002

Senator Carstairs ..... 1002

Replacement of Sea King Helicopters—Sea State Operation and  
Ditching Requirements. Senator Stratton ..... 1002

Senator Carstairs ..... 1002

### The Environment

United States—President's Energy Plan—Respect and  
Enforcement of Clean Air Treaty. Senator Spivak ..... 1003

Senator Carstairs ..... 1003

Alternative Fuel Plans—Tax Relief Initiatives.  
Senator Spivak ..... 1003

Senator Carstairs ..... 1003

### Agriculture and Agri-Food

Downturn in Grain Seed and Oilseed Sectors—  
Effect of Input Costs. Senator Gustafson ..... 1003

Senator Carstairs ..... 1003

Interest-Free Government Loan to Purchase Seed,  
Fertilizer and Spraying Material. Senator Tunney ..... 1004

Senator Carstairs ..... 1004

### Delayed Answers to Oral Questions

Senator Robichaud ..... 1004

### National Defence

Replacement of Sea King Helicopters—Splitting of  
Procurement Process.

Question by Senator Forrestall  
Senator Robichaud (Delayed Answer) ..... 1004

Replacement of Sea King Helicopters—  
Order to Proceed with Project.

Question by Senator Forrestall  
Senator Robichaud (Delayed Answer) ..... 1005

Helicopter Acquisition Projects—  
Retention of Legal Counsel.

Question by Senator Kinsella  
Senator Robichaud (Delayed Answer) ..... 1005

**Response to Order Paper Question Tabled**

Solicitor General—Difference in Working Conditions Between Correctional Officers and RCMP.	
Senator Robichaud .....	1005

Senator Stratton .....	1013
Senator Kinsella .....	1013
Senator Beaudoin .....	1013
Senator Bolduc .....	1015
Senator Prud'homme .....	1016

**ORDERS OF THE DAY****Kanesatake Interim Land Base Governance Bill (Bill S-24)**

Message from Commons. ....	1005
----------------------------	------

**Conference of Mennonites in Canada (Bill S-25)**

Private Bill to Amend Act of Incorporation— Message from Commons. ....	1005
---	------

**Financial Consumer Agency of Canada Bill (Bill C-8)**

Third Reading—Debate Adjourned. Senator Hervieux-Payette .....	1005
---	------

**Energy, the Environment and Natural Resources**

Request for Authority for Committee to Meet While the Senate is Sitting Denied. Senator Taylor .....	1008
Senator Tkachuk .....	1008

**Youth Criminal Justice Bill (Bill C-7)**

Second Reading—Debate Adjourned. Senator Pearson .....	1008
--	------

**Miscellaneous Statute Law Amendment Proposals**

Motion to Refer to Committee Adopted. Senator Robichaud ...	1012
---	------

**Federal Nominations Bill (Bill S-20)**

Second Reading—Debate Continued—Point of Order. Senator Joyal .....	1012
--	------

**Personal Watercraft Bill (Bill S-26)**

Second Reading. Senator Finnerty .....	1017
Referred to Committee. ....	1017

**Study of Present State of Domestic and International  
Financial System**

Budget and Request for Authority to Engage Services— Report of Banking, Trade and Commerce Committee Adopted. Senator Kolber .....	1017
--	------

**Privileges, Standing Rules and Orders**

Budget and Request for Authority to Travel—Third Report of Committee Adopted. Senator Austin .....	1017
---	------

**Situation of Official Languages in Ontario**

Inquiry. Senator Corbin .....	1017
-------------------------------	------

**Views of British Columbians on Western Alienation**

Inquiry. Senator Taylor .....	1018
-------------------------------	------

**Deferred Maintenance Costs in Canadian  
Post-Secondary Institutions**

Inquiry—Debate Continued. Senator Joyal .....	1019
Senator Kinsella .....	1021

<b>Appendix</b> .....	1
-----------------------	---





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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT

• VOLUME 139

• NUMBER 43

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OFFICIAL REPORT  
(HANSARD)

Wednesday, June 6, 2001

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Wednesday, June 6, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

their efforts, the Allies went on to victory in Europe and the defeat of the Nazi regime.

[Translation]

### SENATORS' STATEMENTS

#### FIFTY-SEVENTH ANNIVERSARY OF D-DAY

**Hon. Norman K. Atkins:** Honourable senators, 57 years ago today, I lay sick in my bed, a 10-year old boy with measles. As I lay there that day, I listened in fascination to radio reports about the Allied invasion of Normandy. That day, of course, was D-Day and the images those radio reports evoked have stayed with me ever since.

By June of 1944, Canada, a nation of only 12 million inhabitants, had produced an overseas fighting force of 270,000 soldiers. On June 6, 1944, some 15,000 of these Canadian soldiers, along with many thousands of other Allied soldiers, began the invasion that would ultimately result in Germany's defeat. Our soldiers were supported that day by more than 100 Canadian vessels and 10,000 Canadian seamen who helped protect our troops as they advanced toward the beaches.

The Canadian landing on the Normandy coast was a tremendous success. By the end of 24 hours, our soldiers had not only secured Juno Beach, they had also moved further inland than any other Allied troop. Our success, however, was not without a costly sacrifice. By the end of the same 24-hour period, some 1,000 Canadian soldiers — sons, brothers and fathers — lay dead or injured.

Our soldiers and the rest of the 155,000 Allied troops who landed at Normandy paved the way for all those who followed. Together, these soldiers fought and died to preserve the freedom that we enjoy today.

In 1999, on the fifty-fifth anniversary of D-Day, I had the privilege of being part of a delegation organized by the Department of Veterans Affairs that travelled to Normandy to pay tribute to all of our soldiers who took part in the invasion. It was a moving experience. Visiting the gravesites, the battlefields and the beaches of Normandy evoked the same images of bloody triumph and tragedy as those radio transmissions 50 years earlier.

Honourable senators, we are all grateful for those who fought for our freedom. I hope you will join me today in remembering those who participated in the invasion of Normandy. Thanks to

### ACADIAN GAMES

**Hon. Rose-Marie Losier-Cool:** Honourable senators, the idea of having a sporting event for francophones in New Brunswick was first touched upon at a symposium on sports in francophone communities in June 1978.

In 1979, the idea was launched throughout the maritime provinces, when activities were being organized for the 375th anniversary of Acadia. The first sporting event was held at the Université de Moncton in August 1979, and a total of 386 young people from the six francophone regions of New Brunswick took part. These first games were such a success that the decision was made to hold the Acadian Games in June 1980 and invite delegations from PEI and Nova Scotia.

In order to allow the Acadian communities to benefit from the holding of such an event, the Games were decentralized from 1982 on. Their exceptional success soon forced the first Games volunteers to set up a permanent office, which they did in 1981, and to create the Société des Jeux de l'Acadie.

Since their inception, a total of nearly 19,000 young people have participated in the Acadian Games finals, and some 68,000 in the regional events.

Volunteer participation has been the key to the success of the Acadian Games from their beginnings in 1979. More than 3,000 volunteers are involved. Several thousand are responsible for the planning and organization of the regionals and finals. A real army of volunteers contributes its expertise to make these sports, social and cultural events possible.

In this, the International Year of the Volunteer, I wish to congratulate all the volunteers who have contributed to the many successes of the Acadian Games. Their work is exemplary; their generosity has provided thousands of young people with the opportunity to be involved in the development of Acadian and francophone youth of the Maritimes.

This year, the 22nd annual finals of the Acadian Games will be held at Abram Village/Wellington, PEI. From June 27 to July 1, 2001, more than 1,000 young people who have the French language in common will be taking part in this great sporting event. Long live the Acadian Games!

[English]

## FIFTY-SEVENTH ANNIVERSARY OF D-DAY

**Hon. J. Michael Forrestall:** Honourable senators, it is difficult to aptly describe the events that occurred so many years ago, 57 to be exact. However, with some humility, I will try to remember those who landed in the forces to free France.

"There is no greater love than this, that someone should lay down his life for his friends," said the Apostle John.

• (1340)

Two years earlier, on August 9, 1942, Canadian troops of the Second Canadian Division tried to seize Dieppe in a grand raid. It was, as we recall, a disaster. Our Second Division was, for all intents and purposes, destroyed. Lessons learned from Dieppe were employed on D-Day by the British-led forces, particularly by Canada. John Keegan, in his monumental work entitled *Six Armies in Normandy*, wrote of this:

It is illuminating to say of Dieppe — as it was and is often said — that it taught important lessons about amphibious operations as to say...the Titanic disaster that taught us important lessons about passenger liner design.

So it was that the brave Second Canadian Division laid down their lives for their friends and for all of us.

On June 6, after a long, wet, vomit-soaked journey across the English Channel through the dark of night and stormy seas, British, American, Polish, Free French and Canadian troops hit the beaches of Normandy to breach Hitler's "Fortress Europe" in an epic and decisive land battle almost unrivalled in history.

Canada's Third Division was put ashore from some of the very same landing craft that had survived Dieppe. On Juno Beach, arguably the bloodiest beach of the British-Canadian landings, Canadians swarmed ashore, while others perished in chest-high water under direct enemy fire. To seize this beach, Canada's troops were covered by six times the naval fire-power that Canada's Second Division had for their ill-fated landings at Dieppe. Canada could not afford to retreat into the sea this time, and they held their ground despite heavy enemy fire, sweeping dramatically inland and making the deepest penetration of the German front on day one. Germany's famous Field Marshall Erwin Rommel called it "the longest day." The North Shore Regiment, the Fort Garry —

**The Hon. the Speaker:** I am sorry, but I must advise the honourable senator that his three minutes are up.

[Translation]

## NATIONAL MISSING CHILDREN'S DAY

**Hon. Lucie Pépin:** Honourable senators, on May 25, we celebrated National Missing Children's Day. The objective of

this day was to make us aware of the situation of the thousands of young Canadians who go missing every year. The other purpose of this event was to recognize the exceptional contribution of men and women who work tirelessly to find and recover missing children.

The latest report of the RCMP's Missing Children's Registry is not very reassuring. We learn from it that the number of missing has reached its highest level ever. In 2000, the registry listed over 63,712 cases of missing children, who were documented as having run away or been kidnapped by one of the parents or become homeless. This number is far above the annual average these past 13 years of an estimated 57,000. Although the majority of these cases were resolved and most of the children were found safe and sound, there is still, unfortunately, much to do.

What is the cause? What should we do to make the return of these children easier? My greatest wish is that all of the energy necessary be harnessed to help these thousands of young people. We have to get them out of this situation. It is our duty to give hope to runaway children, who represented in 2000 78 per cent of the cases of missing children in Canada.

We owe it to these children, who are often forced to leave their parents' home because of family problems. We also owe it to all the young people who have been kidnapped.

I invite the federal government to further tighten legislation related to cases of parental abductions. Still on the subject of this registry, I encourage the government to consider the recommendations made in 1998 by the Subcommittee on Human Rights and International Development on the question of international abductions of children.

It is more than desirable that the Government of Canada continue to keep the issue of child abductions on the agendas of bilateral and multilateral meetings attended by non-signatory states. If it is not going to work actively to increase the number of countries signing The Hague Convention, the Government of Canada must continue its deliberations on bilateral treaties with countries that have yet to sign the convention. We must continue to work to help these children in distress and families at the end of their tether.

[English]

## FORTIETH ANNIVERSARY OF AMNESTY INTERNATIONAL

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise to call the attention to the fortieth anniversary of Amnesty International. This worldwide organization was founded in 1961 by lawyer Peter Benenson, who launched an appeal for two Portuguese students who had been unjustly imprisoned because they had raised their glasses in a toast to freedom. This proved to be the genesis event that led to the creation of Amnesty International.



Today, Amnesty has over 1 million members, who volunteer their time and energy in the protection and promotion of human rights. Amnesty International frees itself from any governmental, political or religious ideology to ensure impartial protection of individual rights and freedoms is given to all human beings. In the same respect, the organization does not attempt to influence people or governments to follow any particular ideology.

Amnesty International, however, does provide recommendations to governments on how to prevent mistreatment of individuals. With the example of political prisoners, Amnesty calls for trials to meet minimum international standards of fairness. These include, for example, the right to a fair hearing before a competent, independent and impartial tribunal; the right to have adequate time and facilities to prepare a defence; and the right to appeal to a higher tribunal.

Amnesty International also seeks to obtain just solutions to human rights atrocities and present those suggestions to governments in order to help them achieve a more peaceful and righteous political objective.

Amnesty's 2001 report reveals that 144 countries tortured individuals, 63 countries held prisoners of conscience, 72 countries detained individuals without charge or trial, 61 countries committed extra-judicial executions, and 42 countries had armed opposition groups that engaged in killing, torturing and hostage-taking.

At a time, honourable senators, when so many injustices take place across the world against our brothers and sisters, let us hope that Amnesty International's fortieth anniversary, with all the goodwill that will be generated by it, will in fact encourage those free from such injustices to volunteer with this organization, and that those regimes that impede human rights will embrace the spirit of freedom during this year.

## ROUTINE PROCEEDINGS

### ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE ACT PETRO-CANADA PUBLIC PARTICIPATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Nicholas W. Taylor**, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, June 6, 2001

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

#### FOURTH REPORT

Your Committee, to which was referred Bill C-3, An Act to amend the Eldorado Nuclear Limited Reorganization and

Divestiture Act and the Petro-Canada Public Participation Act, has, in obedience to the Order of Reference of Thursday, May 10, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NICHOLAS W. TAYLOR  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Banks, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

### CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL

REPORT OF COMMITTEE

**Hon. Nicholas W. Taylor**, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, June 6, 2001

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

#### FIFTH REPORT

Your Committee, to which was referred Bill C-4, An Act to establish a foundation to fund sustainable development technology, has, in obedience to the Order of Reference of Wednesday, May 2, 2001, examined the said Bill and now reports the same without amendment, but with observations which are appended to this report.

Respectfully submitted,

NICHOLAS W. TAYLOR  
*Chair*

(For text of observations, see today's Journals of the Senate, p. 641.)

**Senator Taylor:** Honourable senators, I request leave to make a few remarks concerning this report.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

• (1350)

**Senator Taylor:** Honourable senators, the observation that is appended to the committee's fifth report reads as follows:

The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of \$100 million of taxpayers' money with that corporation, without the prior approval of Parliament, is an affront to members of both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

### ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, June 7, 2001, at 1:30 p.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

### ILLEGAL DRUGS

NOTICE OF MOTION TO AUTHORIZE SPECIAL COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Pierre Claude Nolin:** Honourable senators, I give notice that tomorrow, Thursday, June 7, 2001, I will move:

That the Special Committee on Illegal Drugs have power to sit on Monday next, June 11, 2001, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[English]

### FOREIGN AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that tomorrow, Thursday, June 7, 2001, I will move:

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:30 p.m. Monday, June 11, 2001, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[Translation]

### TRANSPORT AND COMMUNICATIONS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY MEASURES TO ENCOURAGE FRENCH-LANGUAGE BROADCASTING

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Monday next, June 11, 2001, I will move:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada.

[English]

### QUESTION PERIOD

#### NATIONAL DEFENCE

REPLACEMENT OF SEA KING HELICOPTERS—COST OF EQUIPPING EUROCOPTER COUGAR FOR NAVAL USE

**Hon. J. Michael Forrestall:** Honourable senators, I have a few questions for the Leader of the Government in the Senate. Government documents have estimated the costs, in 1992 dollars, of "navalizing" the Eurocopter Cougar to be at \$500 million. Since costs have doubled, more or less, over 10 years through inflation, that figure will be much higher, perhaps close to \$1 billion.

Is this one of the risks of this program that Mr. Alan Williams, ADM, National Defence, Materiel, was speaking of yesterday, and if so, who picks up these extra costs?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the question that Senator Forrestall asks this afternoon is an interesting one. However, I cannot give him the answer to it. I will ask the ministry for more details and get back to him as soon as possible.

**Senator Forrestall:** Does the minister believe that the Eurocopter group will spend between \$500 million and \$1 billion to navalize the Cougar when it will be awarded a \$925 million contract for 28 helicopters? Does the minister realize that if the government were to take commonality savings into account, it could save as much as \$700 million on a single competition in addition to saving \$400 million in contingency costs, for a total savings to the taxpayer of over \$1 billion?

**Senator Carstairs:** Honourable senators, the reality is we do not know what the helicopter project will cost since the bids are not in. They are now coming in. When they are received, evaluated and a decision is made, then we will know the exact costs of this project.



## FOREIGN AFFAIRS

### UNITED STATES—MISSILE DEFENCE SYSTEM—AVAILABILITY OF BRIEFING PAPERS DESCRIBING PROPOSAL—REQUEST FOR RESPONSE

**Hon. Douglas Roche:** Honourable senators, on May 30, I repeated my request of May 17 to the Leader of the Government to make available to the Senate briefing materials that may have been left behind by the American delegation concerning missile defence. The minister said that she would attempt to get that information, along with the material of intervention the Minister of Foreign Affairs used at the NATO meeting, which occurred the week before. I wonder if she would give me a progress report on that.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I have made that request, as I indicated. I have not yet received a delayed answer, which is the normal process by which I receive such information. I will ask staff today to make another follow-up call.

**Senator Roche:** Does the minister think there is anything strange about the fact that three weeks have elapsed since my first request for what amounts to the transport of material from the Pearson Building to the Senate?

**Senator Carstairs:** Honourable senators, I do not think that is particularly unusual at all because there are a number of processes that would have to be followed. First, it would have to be determined whether those materials are available. Second, it would have to be determined whether those materials are sharable by both parties, and both parties would have to agree. I would suggest to the honourable senator, before they could be made available. Third, the minister's permission is required, and, as you know, the minister is out of the country. All those things do not make me concerned that there has been a three-week time lapse.

• (1400)

## THE ENVIRONMENT

### EXPORTING OF BULK WATER—CONFORMITY WITH INTERNATIONAL BOUNDARY WATERS TREATY ACT

**Hon. Mira Spivak:** Honourable senators, my question is to the Leader of the Government on the issue of bulk water exports. One columnist looking at the situation was led to speculate whether Minister of the Environment David Anderson is really a CIA operative who wants to sabotage the whole event. The latest development was a contract to develop the methodology to value water, which states that there is a need for this work to help governments make decisions on issues such as water exports.

I am aware that there are government initiatives concerning the movement of bulk water out of watersheds. Even the amendments to the International Boundary Waters Treaty Act would apparently prohibit bulk water removal from boundary water, but none of this does anything about water exports.

I have two questions, which are perhaps not answerable today. First, what is the policy of the government on bulk water exports? Second, has the government's little-used power of peace, order and good government ever been contemplated as a way in which the federal government can exercise its power on a matter such as this that is national in scope, if not global, without obtaining the consent of all the provinces, which has never proved to be possible?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator asks some interesting questions. Let us begin with the response that the government has presently before Parliament, which is Bill C-6. That bill prohibits bulk water removals from the Great Lakes and other boundary waters. That is clear. That is the government's position.

To date, the provinces have indicated that they are committed to this legislation as laid down by the federal government. We have heard from the Government of Newfoundland that perhaps it may want to go offside with this particular policy. The government has clearly indicated that it does not have control over all of the water in the province of Newfoundland. It is hoped that the province of Newfoundland and, more particularly, the Government of Newfoundland can be persuaded that this legislation is good.

The second part of the question was very interesting: Has the peace, order and good government clause been examined? I can assure the honourable senator that I will take her suggestion to the cabinet because I think it raises an interesting possibility.

**Senator Spivak:** The International Boundary Waters Treaty Act would give the Minister of Foreign Affairs the power to issue licences for such priority uses as power generation, irrigation and sanitation.

As this columnist points out, it looks like a trade lawyer's dream loophole. For example, if water is diverted from one of the Great Lakes to feed farms in the U.S. Midwest, is this not an export? We are treading on dangerous ground. All it would take now, or at least this seems to be the majority opinion, is just one shipment and the horse is out of the barn.

I would appreciate an opinion from the Department of Justice. Could it clarify this issue as it concerns the Great Lakes and what that power actually entails? I would appreciate any other information that the honourable leader could possibly get.

**Senator Carstairs:** The exemption is allowed for in Bill C-6 because, as the honourable senator and other senators know, most bills have regulatory powers attached to them. They are extremely limited in this case to such things as firefighting and short-term humanitarianism, for which licences can be granted. The whole area of whether the exemption can go beyond that scope is an important aspect of the discussions that must take place when that bill comes over to us and goes before our committee. We want to know the full extent of the bill, and we should seek and get the kind of assurances that the honourable senator is requesting.



[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this chamber the delayed answers to three questions: Senator Kinsella's question of May 2, 2001, concerning racism on the Internet, Senator Oliver's question of May 1, 2001, concerning Canadian participation in the World Conference Against Racism, and Senator Murray's question of May 17, 2001, concerning the Canadian Broadcasting Corporation.

## CANADIAN HUMAN RIGHTS COMMISSION

### RACISM ON INTERNET—LIMITATION OF RESOURCES TO RESPOND

*(Response to question raised by Hon. Noël A. Kinsella on May 2, 2001)*

The Internet offers tremendous economic and social opportunities. It also enables small groups of people, including racists, to make their presence known. Its advent may therefore increase the risk of racism becoming established somewhere on the planet.

The Government acknowledges the public's concern about illegal and offensive content on the Internet and is promoting safe and responsible Internet use as well as addressing issues related to illegal and offensive content.

Canadians are making greater and greater use of the Internet, whether at home, or in the workplace, school or library. By early 2000, one out of every two Canadians was using the Internet.

The Internet can turn a home, a school or a library into a place of unlimited information and communication. However, along with these benefits come risks, including exposure to material considered to be pornographic, violent, hate-filled, racist or generally offensive.

Federal departments and agencies are working with law enforcement, Internet service providers and international organizations to ensure that illegal and objectionable activities on the Internet are dealt with in an effective fashion.

On February 15, 2001, Ministers of Industry and of Justice launched the Canadian Strategy to Promote Safe, Wise and Responsible Internet Use, to equip Canadians with resources to help protect children against the dangers of illegal and offensive Internet content.

## MULTICULTURALISM

### UNITED STATES SOUTHERN CALIFORNIA PREPARATORY CONFERENCE FOR WORLD CONFERENCE AGAINST RACISM—LIST OF PARTICIPANTS

*(Response to question raised by Hon. Donald H. Oliver on May 1, 2001)*

The Southern California Preparatory Conference was co-sponsored by the White House Interagency Task Force on the World Conference Against Racism and the Los Angeles County Commission on Human Relations. The L.A. County Commission on Human Relations invited the Government of Canada to participate in their consultation, which targeted South Californian NGOs and local participants. The Preparatory Conference was an opportunity for Canadians to exchange information with U.S. non-governmental organizations and government representatives about our domestic consultation process. A delegation, led by the Honourable Hedy Fry, Secretary of State (Multiculturalism) (Status of Women), participated in the forum which focused on the following four themes:

- 1) combating racism in the media;
- 2) community response to hate crimes and intergroup conflict;
- 3) teaching tolerance: youth perspectives; and,
- 4) workplace discrimination.

Canada participated at this forum to achieve the following objectives:

to bring Canadian and U.S. NGOs together in the WCAR consultative process which would add a new element of bi/international cooperation;

to expand general Canada-U.S. engagement on diversity issues; and

to demonstrate Canada-U.S. leadership in cooperation and joint efforts in support of the WCAR process.

**Half** of the following participants represent visible minorities or Aboriginal Peoples:

The Honourable Hedy Fry, Secretary of State (Multiculturalism) (Status of Women), British Columbia

Réal Ménard, Member of Parliament for Hochelaga—Maisonnette, Quebec

Andrew Cardozo, Commissioner, Canadian Radio-television and Telecommunications Commission, Ontario

Ahasiw Maskegon-Iskwew, Web Editor, Aboriginal Peoples Television Network, Manitoba

Irshad Manji, (Host) Queer Television, City TV, Ontario

Patrice Baillargeon, White Pines Pictures, Quebec

Annmarie Barnes, (Criminologist) University of Toronto, Ontario

Jaime Koebel, National Association of Friendship Centres, Aboriginal Youth Council, Ontario

Maria Yongmee Shin, Filmmaker and Producer, "Journey to Little Rock", Ontario

Pascal Charron, Communications Advisor to the Secretary of State, Quebec

Gilbert Scott, Executive Director, Canadian Secretariat, WCAR, Department of Canadian Heritage

Kerridwen Harvey, Senior Policy Advisor, International Relations, Department of Canadian Heritage

Kate McGregor, Manager, March 21 Secretariat, Department of Canadian Heritage

Catherine Drew, Manager, Strategic Communications and Outreach, Canadian Secretariat — WCAR, Department of Canadian Heritage

Paul Pierlot, Senior Policy Advisor, Industry Canada

## CANADIAN BROADCASTING CORPORATION

### POSSIBLE PARTNERSHIP WITH *TORONTO STAR*

(Response to question raised by Hon. Lowell Murray on May 17, 2001)

The CBC indicates partnership arrangements can enhance its ability to fulfil its mandate and to get the most out of its resources. Strategic alliances are now a formal part of the way the CBC operates.

In January 2001, the CBC announced that it had reached agreement with *La Presse* to take advantage of synergies resulting from complementary activities, notably with the Internet, special events and promotion.

**The CBC is said to be discussing similar arrangements with *The Toronto Star*, but no agreement has yet been announced.**

The CBC has stated that any such agreement will be non-exclusive and will have no impact on the editorial independence of the CBC or any of its partners. The CBC

has also indicated that it will continue to have full control of its content.

For several years now, the CBC has cooperated with private sector media in Canada such as:

*The National Post* on a series of programming specials;

*The Globe and Mail* on lecture series and polls; and

*Maclean's Magazine*, *La Presse* and *The Toronto Star* on polls.

On May 10, 2001, the Standing Committee on Canadian Heritage announced that it will conduct an 18-month study on the state of the Canadian broadcasting system, beginning in September 2001.

This study will provide an opportunity for the Government and Canadians to discuss the implications of an increasingly globalized communications sector including the role of the CBC within this new environment. We look forward to the Committee's recommendations.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, under Government Orders, we would like to begin with Item No. 2 before moving to Items Nos. 1 and 3.

[English]

### CUSTOMS ACT

#### BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

**Hon. Sharon Carstairs (Leader of the Government)** moved the third reading of Bill S-23, to amend the Customs Act and to make related amendments to other Acts.

[Translation]

#### MOTION IN AMENDMENT

**Hon. Raymond C. Setlakwe:** Honourable senators, I move, seconded by the Honourable Senator Morin:

That Bill S-23 be not now read a third time but that it be amended in clause 34, on page 16, in the French version,

(a) by replacing lines 34 and 35, with the following:

“préférentiel demandé pour le motif que le classement tarifaire ou la valeur d’une matière”; and

(b) by replacing lines 38 and 39, with the following:



“marchandises diffère du classement ou de la valeur correspondants de ces matières ou”.

[English]

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Hon. Eymard G. Corbin:** Explain.

[Translation]

**Senator Setlakwe:** Honourable senators, the Canada Customs and Revenue Agency, the CCRA, has gone a long way in adapting to globalization and changes in trading practices. It must, however, do even more in order to follow the government's program to increase Canada's share of international tourism and trade. The modern system of border management...

[English]

**The Hon. the Speaker:** I believe I heard Senator Kinsella raise a point of order.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I think the honourable senator is speaking to the main motion. An explanation is needed of the amendment that has been moved, which is the matter now before the house.

**The Hon. the Speaker:** I understand Senator Kinsella's point. I am aware, as all senators are, of a certain liberty in terms of speeches on amendments. I am not sure that Senator Setlakwe will not get to matters that are relevant to that point. If you bear with me, I will listen further to see whether Senator Setlakwe should be interrupted. I am sure other senators will also be listening.

• (1410)

**Senator Setlakwe:** Honourable senators, it has been noted since Bill S-23 was introduced in committee that in subclauses 34(1) and 42(1) there is some inconsistency between the French and English text of those amendments.

In subclause 34(1) on lines 34 and 35 of the French text, the words “la valeur ou le classement tarifaire” appear. On the left side of the page at lines 31 and 32, the words “le classement tarifaire ou la valeur” are shown. A similar inconsistency appears within the same paragraph at lines 38 and 39, on the right side of page, and lines 35 and 36, on the left side of the page respectively. This inconsistency is a technical matter only and has no effect on the interpretation or the application of the provision.

**The Hon. the Speaker:** Honourable senators, I will put the question.

It was moved by the Honourable Senator Setlakwe, seconded by the Honourable Senator Morin:

That Bill S-23 be not now read the third time but that it be amended in clause 34, on page 16, in the French version,

(a) by replacing lines 34 and 35...

**Hon. Senators:** Dispense.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Hon. Senators:** Agreed.

Motion in amendment agreed to.

[Translation]

#### MOTION IN AMENDMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I move, seconded by the Honourable Senator Finestone:

That Bill S-23 be not now read a third time but that it be amended in clause 42, on page 20, in the French version, by replacing lines 13 to 18, with the following:

“du paragraphe 59(2) peut, dans les quatre-vingt-dix jours suivant la notification de l'avis et après avoir versé tous droits et intérêts dus sur des marchandises ou avoir donné la garantie, jugée satisfaisante par le ministre, du versement du montant de ces droits et intérêts, deman-”.

[English]

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment by Senator Robichaud?

**Hon. Senators:** Agreed.

Motion in amendment agreed to.

**Hon. Lowell Murray:** I presume we are on the main motion for third reading as amended.

**The Hon. the Speaker:** Yes.

**Senator Murray:** Honourable senators, Bill S-23, as you know, is a government measure that was introduced in the Senate. It is therefore incumbent upon us to give it both sober first and sober second thought at the same time before sending it along, if that is your wish, to the House of Commons.

This bill received second reading in this place on May 3 and was referred to the Standing Senate Committee on National Finance. For the record, as chairman of the committee, let me say that the bill was considered at four meetings, on May 8, 9, 15 and 16. The witnesses we heard were the Minister of National Revenue and his officials, the Canadian Bar Association, the Canadian Association of Importers and Exporters, and the Canadian Society of Customs Brokers.



At committee, our friend Senator Setlakwe proposed a number of amendments, I think 10 or 11 in all, on behalf of the government. These were approved by the committee and adopted here in the Senate at report stage last Thursday.

Senator Angus spoke at second reading and at third reading, and he took a very important part in the proceedings of our committee. I do want to acknowledge his outstanding contribution to the debate on this bill.

**The Hon. the Speaker:** Honourable senators, I hate to interrupt. There is quite a bit of noise in the chamber at the present time. I request honourable senators who wish to carry on conversations to do so beyond the bar. I would appreciate it.

**Senator Murray:** Senator Angus brought his considerable professional background and skills to the consideration of this bill. He was obviously very knowledgeable on it and was very helpful to us in our deliberations. I simply want to acknowledge that fact on behalf of the committee.

He would say, correctly, that there is widespread support for the main thrust of this bill, which is the modernization and streamlining of the customs procedure. What brings me to my feet today, however, is an issue that came up in the course of our committee hearings on this bill. That issue is the expansion of power provided for in the bill to allow the government to open and examine mail.

Under the provisions of the current law, customs officers can open imported goods, including incoming mail weighing more than 30 grams if they suspect on reasonable grounds that the package contains prohibited, controlled or regulated goods.

The provisions with regard to exported goods are the same, but, under the current law, customs officers cannot open mail of any weight without a search warrant. This bill would change that provision in the following respect: Bill S-23 would extend to exported goods and outgoing mail the same powers that customs officers currently have with regard to imported goods and incoming mail.

The Canadian Bar Association, when they appeared before us on May 15, testified that the powers now held by customs officers with regard to imported goods and incoming mail particularly are already too broad. They state that extending these powers to cover outgoing mail would invade the privacy of Canadians and, in particular, that it would threaten solicitor-client privilege. They are concerned that there is no explicit exclusion for materials for communications that would be subject to solicitor-client privilege.

• (1420)

The Canadian Bar Association points out that at present customs officers conduct random checks of packages, including mail more than 30 grams in weight. They point out what seems to me to be self-evident: that the idea of random checks cannot

possibly be squared with the reasonable suspicion threshold that is contained in the law. They say, and I quote from the evidence of Mr. Benjamin J. Trister, Vice-Chair, National Citizenship and Immigration Law Section, Canadian Bar Association:

I suggest to you that the current practices, in relatively short order, will be the subject of a declaratory action, as we will be seeking the court's view of how the current act is administered.

A bit later, he adds, in speaking about the provision that I am discussing here:

I would expect that if this provision is allowed to proceed as drafted, that it, too, will become the subject of litigation based on both of the arguments: general privacy rights and Charter rights, as well as solicitor-client privilege.

With regard to solicitor-client privilege, I believe it was Mr. Trister himself who gave us the example of a client who had sent through the mail an affidavit to his lawyer for use in a future court proceeding. The package was opened and its contents examined and read. The affidavit wound up on the file of the government lawyer before the document was presented in court as evidence. That may be one exceptionally outrageous example, but it is something that Mr. Trister testifies has happened in his professional experience.

I may say also that the Privacy Commissioner has been heard from on this general issue of the opening of mail; not on the provision of the present bill, but on the present practice. He suggested that when the customs people believe that there is a package that may contain, for example, fraudulent immigration documents, Canada Customs should send the package along, unopened, to the Department of Citizenship and Immigration. The officials of the Department of Citizenship and Immigration should then obtain a search warrant before they open the package and examine its contents.

I believe it was Senator Kinsella who quoted the present Minister of Citizenship and Immigration, Ms Caplan, as responding to that suggestion by saying they could not do that, that because they open so many, getting a search warrant every time would cause the process to grind to a halt. That will give honourable senators an example of the magnitude of the problem that we may be dealing with here.

The Canada Customs and Revenue Agency officials, and I refer in particular to Mr. Denis Lefebvre, who is the Assistant Commissioner of Customs, responded in a general way to the recommendations and representations of the Canadian Bar Association by saying two things. The first thing they said is that the reasonable suspicion threshold is a low threshold. I infer from that statement that they consider the reasonable suspicion provision validates or permits the present practice, whatever it may be, including, apparently, random checks.

The second thing he said — I am not in a position to contest it and I presume it is true, but it may not be relevant to our present consideration — was that the standard of reasonable suspicion has held up under Charter challenge in the customs context. The Canadian Bar Association has recommended that we move to amend this bill by deleting section 59(4). Alternatively, they have asked that we amend the bill to specifically exclude communications that might be the subject of solicitor-client privilege.

Honourable senators, I hope I have said enough to alert you to the fact that once again the Senate is in somewhat of a dilemma. We have a serious and reasoned objection on constitutional grounds by the Canadian Bar Association to one of the provisions of Bill S-23. The government, for its part, has not mounted a considered legal response to the Canadian Bar Association's objections. I say that with all due respect to the officials who testified before the committee.

Our friend, Senator Banks, who was present during all of the testimony, has said that the fault is not really with the law, that there is nothing on the face of it that authorizes random checks. Therefore, the remedy is elsewhere than in an amendment to the law. That is one way of looking at the matter. However, it seems to me that if the Canada Customs people are of the view that the reasonable suspicion threshold permits random checks, then there is clearly some confusion, ambiguity and some need for clarity in the law. The law obviously lacks clarity.

Honourable senators, this brings me back to a conversation that we had in this chamber as recently as May 1, when we were discussing the Judges Act, Bill C-12. It was what started as something of a conversation between Senator Grafstein, the sponsor of the bill, and me, but went on to include a number of other senators. We were discussing the very problem that arises when the Senate has legislation before it about which there is some question as to constitutionality and what we should do. As you know, the Minister of Justice and her officials will not come to testify on that point. Their position is that they advise the Crown, they do not advise Parliament. We have no process built into our consideration of legislation that would let us consider constitutionality as a discrete issue.

• (1430)

Senator Grafstein said, among many other things when we got into that discussion:

Legislation that lacks clarity is an invitation to judicial activism. That in turn degrades the principle of parliamentary supremacy. So the fault, honourable senators, may lie with ourselves.

Senator Joyal, after he got into the discussion, said:

It is our duty as parliamentarians to listen to the experts brought forward by the government and various other witnesses who appear before committees and to make up our minds as to whether the bill is in good standing with the Charter or the Constitution.

Senator Grafstein further said:

Good government requires that we have *prima facie* satisfied ourselves independently that the law we are passing is constitutionally satisfactory.

Senator Joyal made it clear that, in his view, it was not enough for us simply to accept the certificate of the Minister of Justice and that we had a duty as legislators to look into these matters in a bit more depth.

The question before us, once again, is what will we do about this situation.

**The Hon. the Speaker:** Senator Murray, I regret to advise that your 15-minute period has expired. Are you requesting leave to continue?

**Senator Murray:** Yes.

**The Hon. the Speaker:** Is leave granted?

**Hon. Senators:** Agreed.

**Senator Murray:** Thank you, honourable senators. I will come immediately to a conclusion.

We are in the same dilemma that we have experienced on several previous occasions, where I have had to bring to your attention the reservations and objections raised by the Canadian Bar Association to one of the provisions of this bill.

#### MOTION IN AMENDMENT

**Hon. Lowell Murray:** Honourable senators, in order to concentrate your minds on the matter, and perhaps have some discussion of our dilemma, I will propose an amendment. I will propose the amendment that has been recommended to us by the Canadian Bar Association. I therefore move:

That Bill S-23 be not now read a third time but that it be amended in clause 59,

(a) on page 64, by deleting lines 25 to 37; and

(b) on pages 64 and 65, by renumbering subclauses (5) and (6) as subclauses (4) and (5) and any cross-references thereto accordingly.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?



**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Senator Murray has raised some interesting issues this afternoon upon which I know a number of members of the committee would like to engage him in vigorous debate. However, I will take the adjournment in order that I can perhaps get further clarity on this issue, and I anticipate that we will be able to discuss this amendment in more detail tomorrow afternoon.

On motion of Senator Carstairs, debate adjourned.

## FINANCIAL CONSUMER AGENCY OF CANADA BILL

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Watt, for the third reading of Bill C-8, to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions.

**Hon. David Tkachuk:** Honourable senators, I am pleased to respond to third reading of Bill C-8. Although we had the bill for only a short time, the committee report comes after years of study. My three and half years as Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce have been spent on this legislation in one form or another. First reporting on the MacKay Task Force report, then the white paper, then Bill C-38, and finally Bill C-8. I do not think that I will miss this bill. However, I anticipate the government will be bringing in new financial services legislation to deal with a number of matters that have not been entirely solved by Bill C-8.

At second reading, our position was clearly stated by Senators Angus, Oliver and myself. In my second reading speech, I discussed the various issues that I would be following. I also stated with regard to Bill C-8 that the devil was in the details.

Without a doubt, the issues studied by the committee pertaining to Bill C-8 have been well studied since 1996. Although Bill C-8 was a new bill, the subject area was well known to the committee. I would add that since I became Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce, in the fall of 1997, a great deal of the committee's time and study had been devoted to the future of the Canadian financial services sector. I am not unhappy that this bill has now passed committee and is at third reading in the Senate.

It is time for the government to move on with its financial services agenda. The same is true for the entire financial services community that has been tied up in the legislative process for many years, going back even to 1992, when Prime Minister Mulroney began the process of revamping and updating the financial services legislative framework.

**The Hon. the Speaker:** I would ask honourable senators to observe our rule in terms of conversations within the chamber. If you would carry them on beyond the bar, that would be appreciated, so that we all may hear Senator Tkachuk.

**Senator Tkachuk:** I am pleased with the committee study of Bill C-8. There are many good elements in the bill, such as the opening up of the Canadian payment system. Access is important for future growth and competition in an industry where the pillars have come down. The lowering of capital requirements to start a bank in Canada may also prove to be a contributing factor to more entrants into the sector.

Honourable senators, it is not that our party opposes Bill C-8, but rather that we are uncomfortable with what the bill does not contain. In my second reading speech I reiterated how this bill is important to all Canadians because it addresses wealth, insurance and purchasing of goods and services. This is no ordinary bill and it will have significant impact.

Many of you may have noticed what happened to the bank stocks after Bill C-8 was reported back to the Senate last week. Many of you got considerably wealthier if you have bank stocks or mutual funds that contained them because the markets either foresaw mergers in the industry or alliances with foreign financial service companies. All of this was due to the bill's passage.

The markets are right, there will be mergers, and soon. There will be alliances with foreign financial service companies. I predict that of the banks that exist today, only two will exist in the future, with possibly a third aligning itself with a foreign company. Insurance companies will merge or buy each other. All of this will take place in the names of competition and efficiency.

Companies will say that such alignments will serve the public better and enable them to compete in the global marketplace. That will be true if you are computer literate, educated, young and live in an urban setting. The rest of the country, the poor, the rural and the computer handicapped, will be asking us what happened to their local bank.

Should we not be able to tell these people to not worry, since we have provided the vision and the foresight to encourage new entrants into the marketplace to replace the old ones?

• (1440)

Changes will take place at alarming speed. Only last week, a group visited my office that will be applying for a new bank charter. They are extremely well prepared. Their concern was whether the government will have the infrastructure and the resources to deal with new applicants and reward those who are organized and first out of the gate. They wonder if the government will delay and obfuscate while the big guys merge and rearrange their affairs, leaving consumers in the lurch.



At the very least, the government has agreed to table draft regulations with the Senate Banking Committee before they are gazetted. We urge the government to act with diligence and speed on this matter.

I believe in the marketplace. I believe that if the environment is correct, there will be new entrants. They will act quickly. That is the reason that the free market system, the capitalist system, is the greatest system in the world. We know that is what will happen.

Honourable senators, I am not confident that this bill has accomplished these things. We are troubled that cooperatives and credit unions were not given a complete road map to enter the marketplace quickly. The cooperatives have discussed with the government the possibility of having a cooperative national bank. That is what they want. They want to set up a national bank in a cooperative structure. They have been having these discussions since 1968. Still they will not have achieved their goal after passage of this bill.

We will need to wait as new regulations, and perhaps legislation, will be necessary to create cooperative national banks and credit unions, while the present participants are allowed to make their moves. This puts cooperatives and the consumer at a disadvantage.

The ING bank, which has a presence in this country as a virtual bank, appeared before us. They were not happy with the provisions for foreign bank competition, in particular.

Honourable senators, I wish to discuss what I consider to be a hindrance to the legislative process. This is not exclusive to Bill C-8 in the Senate Banking Committee. I have referred to the problem in remarks on other pieces of legislation that I have had the privilege to speak to you about. We had difficulty getting witnesses to come before us. We could not get any of the separate banks to come.

**Senator Oliver:** Why was that?

**Senator Tkachuk:** I will respond to the Honourable senator's question shortly. Not one domestic bank came before the committee. The Canadian Banking Association came before us. They knew that the government had no intention of allowing any amendments to Bill C-8.

I do not blame the minister for this step. What minister would want amendments to their legislation? Who is to blame? Where does the responsibility lie? The process is partly responsible. The Senate is partly responsible; the witnesses are partly responsible; and we as a committee are partly responsible. The lengthy process of financial services sector reform contributed to the general will to "just get it done."

True, the issues surrounding reform have been studied for days, weeks, months and years; however, Bill C-8 itself had not

been studied. Although numerous recommendations were made during the consultation process, Bill C-8 did not necessarily reflect each and every thoughtful recommendation made. That, in and of itself, is not a problem, nor is it unusual. The government was elected and through legislation makes its position clear to Canadians. If Canadians do not like the government's position, they can throw them out in the next election.

It upsets me that the department, its officials and the minister's staff exerted an inordinate amount of pressure during the process to ensure that no changes would be accepted. This is challenging Liberal senators to cross the line.

Honourable senators, we all know that members opposite who serve on the committee have problems with this bill. They were stated publicly, and they were stated privately, but not in this chamber. However, Senator Angus did try to state them for others.

I understand why Liberal senators are worried about crossing the line and why they are reticent to do so, but I do not think that the sanctions are as severe as perhaps they would think.

The Senate is also responsible for no amendments being permitted. The Senate gives careful consideration to each and every piece of legislation before it. There is partisanship in this place. It has evolved since 1993, and I am partly responsible for it. If we have an ideological difference on this side of the house, we are being partisan. If there is an ideological difference on the other side, it is considered non-partisan. You cannot have it both ways.

Honourable senators, we will have ideological differences. I am a Conservative. You are a Liberal. There is no way that we could be non-partisan about that. We will have these discussions. However, we represent the country. About half of this country is Conservative. They are split up amongst a bunch of different parties, but they are Conservatives.

**Senator Taylor:** Not once they had their eyes opened.

**Senator Tkachuk:** The Liberals govern with 38 per cent of the vote. Conservatives, whether we call them by that name or another, hold provincial power in Alberta, British Columbia, Ontario, and the Maritime Provinces. They will soon hold power in Newfoundland.

**Senator Oliver:** Now you are talking.

**Senator Tkachuk:** The Senate would not allow amendments to be made to the legislation once the House has risen for the summer because the Prime Minister would not allow, forgive or understand having to recall the house. That is one of the reasons that we cannot do anything. Gee whiz, all those MPs would need to come back, or we would need to deal with it in the fall.

Honourable senators, I am speaking to both sides of the chamber. We are letting our legislative and constitutional duty slip away. We will not be able to reclaim it.

Major stakeholders refused to appear as witnesses for simple reasons. I return to Senator Oliver's question. Those stakeholders understood that no amendments would be made. They felt that it was in their best interest, considering their use of resources, to focus on negotiating with the department for amendments and to bypass us. They know where the power is around here if they wanted to achieve change, either now or before Bill C-8 was tabled.

I understand their position. If I were a businessman, I would choose the most efficient path for action. They did. I would base my analysis on the path that had the greatest chance of change. They did. The Standing Senate Committee on Banking, Trade and Commerce did not provide this opportunity for change in Bill C-8. I hope that it does so in the future.

Senator Kolber, the Chair of the Banking Committee, ran excellent meetings. He was very amenable to developing lists of witnesses. He was extremely fair. We tried to obtain witnesses to testify. I do not want to leave the impression that it was only the chair and I who were trying to get witnesses. We all were trying. Witnesses would not appear. The committee worked well together on this bill, making this study one of the most satisfying that we have had in a long time.

Honourable senators, we must choose. We cannot continue to battle about these issues. We cannot have it both ways. Every one must give, and that includes senators opposite as well as us. We have differences of opinion on matters of policy. We automatically vote the way in which our party leader wants us to vote.

However, I cannot be told that I am partisan and that senators opposite are not. I think that we reflect the Canadian reality. Once again, senators, it is my old saw about the Senate. You may remind me of my speeches when we hold the majority in this place, which we will someday. I hope that I will not let you down.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

• (1450)

## BROADCASTING ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

**Hon. Sheila Finestone** moved the third reading of Bill S-7, to amend the Broadcasting Act.—(*Honourable Senator Finestone, P.C.*).

She said: Honourable senators, Bill S-7 was retabled on January 31, 2001, and went through second reading on February 2, at which time it was referred to committee for further study. It has passed the committee, which heard from many witnesses, and is now submitted for third reading.

To recap, Bill S-7 will use the same language as the Telecommunications Act. The two acts will be in concordance. Bill S-7 gives the CRTC the power to make cost awards in broadcasting, as they now do under the Telecommunications Act. The CRTC will develop rules of procedure, a criteria of relevance of what will be in the public interest. They will hold a public proceeding to help determine what is appropriate on the broadcasting side pertaining to the awarding of costs.

When Bill S-7 is passed, the CRTC will use the same section 44 procedure for cost awards as under the Broadcasting Act. The achievement would be symmetry of legislation and symmetry of rules of procedure.

The CRTC is currently able to exempt any party, either non-profit or commercial, from cost awards under the existing rules of procedure. The CRTC cost award process is multi-staged, non-punitive, fluid and adaptable. The process varies according to circumstance.

Most important, the amendment will allow individuals or public interest groups fair payment and equitable representation at CRTC hearings, both full or panel. David Colville, Chair of the CRTC, said:

The CRTC considers that public participation in their proceedings is an important tool to help them support informed participation in its processes. Such involvement would enrich our decisions and help us to better determine what will be in the public interest.

Honourable senators, I take this opportunity to thank all members of the committee for their hard work in support of this bill. Over the past few months, the committee heard the testimony of various witnesses — government representatives, private for-profit organizations, public interest groups and others. They presented their points of view, which at times differed. Nevertheless, all witnesses agreed on one principle: Increased citizen participation will only benefit our society in the exercise of our democratic principles.

When I sponsored Bill S-7, I was not trying to establish an *a priori* pool of leftover funds to satisfy the requests of public advocacy groups to cover interveners' costs. Furthermore, allocation of funds is not a task of the Standing Senate Committee on Transport and Communications. Rather, the spirit and intent of Bill S-7 rests with the concept that every democratic society should foster active citizen participation in respect of public issues. Modern democratic life requires an active role by the population and participation from members of the community.



It should no longer be the case that those who are governed act only to elect, and then they are governed without the opportunity to interact with the governing institutions.

By increasing the participation of public advocacy groups in CRTC proceedings through Bill S-7, we render a service to our own institutions, allowing them to make use of precise and valuable information. We also energize the democratic system by creating a permanent connection between the governed, those who govern and corporations. This joint venture permits for more reasoned decisions and a better understanding of the concerns and aspirations of our society. As well, it allows all parties to work cooperatively toward possible solutions.

Citizen participation is inherent to the concept of democracy. For this reason, Bill S-7 represents one more step toward refining our institutional framework in an effort to encourage multi-sector cooperation and to strengthen the capacity and skills of all parties involved in the decision-making process.

I urge all honourable senators to support and to vote in favour of this bill.

On motion of Senator Kinsella, debate adjourned.

[Translation]

## DEFERRED MAINTENANCE COSTS IN CANADIAN POST-SECONDARY INSTITUTIONS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary institutions.—(*Honourable Senator Gauthier*).

**Hon. Jean-Robert Gauthier:** Honourable senators, the inquiry of Senator Moore is one that I take very seriously because it raises important issues in the area of post-secondary education, both at the university and collegiate levels. Senators Joyal, Kinsella and Moore spoke eloquently on this issue and I will not repeat what they said.

However, I would like to say that today, at the post-secondary level, there are serious funding and space problems. The federal government signed an agreement with some provinces whereby young people have access to a collegiate post-secondary system that provides training to them. In Ontario, there is no such agreement. Therefore, it is difficult for post-secondary institutions to compete in a fair and just context.

The problem has to do with the financial support that governments provide to students at the post-secondary level. I am thinking in particular of Ontario's French-language colleges, which have only existed for a few years. In fact, it has not been more than ten years since Ontario has had post-secondary colleges that provide training in French.

In Ottawa, there is the Cité collégiale, with between 4,500 and 5,000 students. It provides a range of important services and I believe it has a very good reputation. In the past, the federal government would buy blocks of seats in post-secondary colleges.

• (1500)

Students could choose the training they desired and the federal government provided them with a place in a post-secondary institution. Today, this is no longer the case, and that is the primary difficulty faced by the Cité collégiale. Under the new agreements with the provinces, the federal government gives a student a certain amount of money so that he can take the training of his choice in one of the various institutions. It does not provide money for 100 per cent of tuition fees: The student must assume a certain portion.

However, because the French-language colleges do not have the critical mass, they cannot offer the training young people are seeking. We are told that it will take millions of dollars to be able to accommodate all these young people reaching the post-secondary level. I hope that a solution will be found to the problem, in order to help French-language colleges in Ontario put post-secondary training courses in place.

It must not be forgotten that in Ontario, until next year, I believe, secondary education ends with Grade 13: eight years at the primary level and five at the secondary level, after which students can go on to post-secondary education. Ontario has decided to eliminate Grade 13, so that students will now finish their secondary education with Grade 12. This means that next year, in Ontario, there will be twice the number of students entering post-secondary institutions, both universities and colleges. Do we have enough institutions, buildings and teachers to handle this group of students? The answer is no.

This is not very encouraging. I asked Mr. Giroux, the President of the Association of Universities and Colleges of Canada, to send me some information. I received statistics. It is going to cost billions of dollars to do some catching up so that our young people can compete with the rest of the world. As Canadians, we must rethink our role in the global economy. Today, we are competing with the Chinese, the Europeans, the Japanese and the Americans. Our secondary school students must be just as well equipped to hold their own in the labour market as students from other nations. Otherwise, we are going to lose ground.



This is a very important question. As I said earlier, I have statistics, but I will not share them with you today. Senator Moore has proposed that the Standing Senate Committee on National Finance be authorized to examine and report on the role of the government in funding the costs of maintaining institutions of post-secondary education in Canada. It is an excellent proposal. It will give us a chance to discuss the matter in committee. I hope we will act on this very soon, so that the matter may be given serious study by the senators.

On motion of Senator Robichaud, debate adjourned.

• (1510)

## THE SENATE

### MOTION TO CHANGE RULE 25—REFERRED TO COMMITTEE

**Hon. Jean-Robert Gauthier**, pursuant to notice of May 30, 2001, moved:

That the *Rules of the Senate* be amended, by adding the following:

25.(1.1) A senator may request that the government respond to a specific question placed on the Order Paper within forty-five calendar days by so indicating when filing his or her question.

He said: Honourable senators, this motion is not particularly complex. It simply represents continuity in our work. It also denotes an openness to the work of the Senate. The aim of this motion is to make the work of senators more effective.

Indeed, there are several ways of getting information from the government. A parliamentarian can easily rise during question period to ask oral questions of the Leader of the Government in the Senate. He may also, if the question is complex or technical, choose to put it on the Order Paper to get a delayed answer.

While question period provides a degree of visibility, it is sometimes unrealistic to expect a complete answer from the Leader of the Government in the Senate. The minister cannot be familiar with all the government issues. As we know, senators have specific and diverse interests. Therefore, it is perfectly understandable that, in many cases, the minister will take note of the questions, consult her cabinet colleagues and then get back to us with the answers.

It sometimes takes weeks and even months before getting an answer to a written question — I currently have four. This is inefficient. Moreover, in the Senate, there is nothing to compel the government to answer a question; therefore, sometimes, it does not. Questions can stay on the Order Paper for months and sometimes during a whole session without being answered.

In the House of Commons, where I spent a few years, the government must provide an answer within 45 days once a written question has been put on the Order Paper. It is perfectly normal for a parliamentarian to expect that his questions will be taken seriously and will be answered quickly.

Yesterday, in the other place, a report from the Special Committee on the Modernization and Improvement of the Procedures of the House of Commons was tabled. On page six of that report, there is, for example, a recommendation dealing with these questions, the answers to these questions and a proposal — it is not mine — regarding unsatisfactory answers received from the government or its refusal to reply to certain questions. Under the proposal, these questions could be referred to a House committee.

This is not the proposal I want to make, because we operate differently in the Senate. However, I should like us to discuss this proposal at some point, in the Standing Committee on Privileges, Standing Rules and Orders, so that we, too, can find a way of doing things that is satisfactory to all senators who wish to put written questions on the Order Paper or ask questions in the Senate.

This is a simple and straightforward motion. It would lend greater visibility to the work done by senators in this chamber. When we ask questions, we should expect to be able to get answers. It is completely democratic for Canadians who look to the Senate for serious representation of their regional or minority interests to be ensured that their requests or questions will be studied by the government and will be responded to in a satisfactory manner. If the answer is not satisfactory to them, at least the process will be. An effort will be made — and there is none at present — to ensure that in future a serious answer will be given to any question asked by a senator.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I am in total agreement with the principle behind Senator Gauthier's motion. It is in the best interests, not only of Parliament, but also of all Canadians, for answers to questions of concern to be forthcoming.

I should like to point out that I am extremely satisfied with the way in which the Leader of the Government in the Senate and her Deputy have answered questions during this session of Parliament. However, even if I find the principle behind the motion to be a good one, it is recognized practice not to change a Rule before the Committee on Privileges, Standing Rules and Orders has had the opportunity to look at it in greater detail. Perhaps 45 days is not sufficient time, regardless of whether this is for administrative or other reasons. In principle, I am totally in agreement with this motion, but I prefer to see our committee study it in detail.

## MOTION IN AMENDMENT

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I should like to propose an amendment before the Senate votes on this motion. I move:

That the Committee on Privileges, Standing Rules and Orders study this motion and report to the Senate with a recommendation.

[English]

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Hon. Senators:** Agreed.

Motion in amendment agreed to.

## NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET DURING  
SITTING OF THE SENATE

**Hon. Isobel Finnerty,** for Senator Murray, pursuant to notice of June 5, 2001, moved:

That the Standing Senate Committee on National Finance have power to sit on Thursday June 7, 2001, at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

The Senate adjourned until Thursday, June 7, 2001, at 1:30 p.m.

## CONTENTS

Wednesday, June 6, 2001

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>		<b>Foreign Affairs</b>	
<b>Fifty-Seventh Anniversary of D-Day</b>		United States—Missile Defence System—Availability of Briefing Papers Describing Proposal—Request for Response.	1028
Senator Atkins .....	1024	Senator Roche .....	1028
		Senator Carstairs .....	1028
<b>Acadian Games</b>		<b>The Environment</b>	
Senator Losier-Cool .....	1024	Exporting of Bulk Water—Conformity with International Boundary Waters Treaty Act. Senator Spivak .....	1028
<b>Fifty-Seventh Anniversary of D-Day</b>		Senator Carstairs .....	1028
Senator Forrestall .....	1025	<b>Delayed Answers to Oral Questions</b>	
<b>National Missing Children's Day</b>		Senator Robichaud .....	1029
Senator Pépin .....	1025	<b>Canadian Human Rights Commission</b>	
<b>Fortieth Anniversary of Amnesty International</b>		Racism on Internet—Limitation of Resources to Respond. Question by Senator Kinsella	
Senator Kinsella .....	1025	Senator Robichaud (Delayed Answer) .....	1029
<hr/>		<b>Multiculturalism</b>	
<b>ROUTINE PROCEEDINGS</b>		United States Southern California Preparatory Conference for World Conference Against Racism—List of Participants. Question by Senator Oliver	
<b>Eldorado Nuclear Limited Reorganization and Divestiture Act Petro-Canada Public Participation Act (Bill C-3)</b>		Senator Robichaud (Delayed Answer) .....	1029
Bill to Amend—Report of Committee. Senator Taylor .....	1026	<b>Canadian Broadcasting Corporation</b>	
<b>Canada Foundation for Sustainable Development Technology Bill (Bill C-4)</b>		Possible Partnership with <i>Toronto Star</i> . Question by Senator Murray	
Report of Committee. Senator Taylor .....	1026	Senator Robichaud (Delayed Answer) .....	1030
<b>Adjournment</b>		<hr/>	
Senator Robichaud .....	1027	<b>ORDERS OF THE DAY</b>	
<b>Illegal Drugs</b>		<b>Business of the Senate</b>	
Notice of Motion to Authorize Special Committee to Meet During Sitting of the Senate. Senator Nolin .....	1027	Senator Robichaud .....	1030
<b>Foreign Affairs</b>		<b>Customs Act (Bill S-23)</b>	
Notice of Motion to Authorize Committee to Meet During Sitting of the Senate.		Bill to Amend—Third Reading—Debate Adjourned.	
Senator Andreychuk .....	1027	Senator Carstairs .....	1030
<b>Transport and Communications</b>		Motion in Amendment. Senator Setlakwe .....	1030
Notice of Motion to Authorize Committee to Study Measures to Encourage French-Language Broadcasting.		Senator Corbin .....	1031
Senator Gauthier .....	1027	Senator Kinsella .....	1031
<hr/>		Motion in Amendment. Senator Robichaud .....	1031
<b>QUESTION PERIOD</b>		Senator Murray .....	1031
<b>National Defence</b>		Motion in Amendment. Senator Murray .....	1033
Replacement of Sea King Helicopters—Cost of Equipping Eurocopter Cougar for Naval Use. Senator Forrestall .....	1027	Senator Carstairs .....	1034
Senator Carstairs .....	1027	<b>Financial Consumer Agency of Canada Bill (Bill C-8)</b>	
		Third Reading. Senator Tkachuk .....	1034
		Senator Oliver .....	1035
		Senator Taylor .....	1035



**Broadcasting Act (Bill S-7)**

Bill to Amend—Third Reading—Debate Adjourned.	
Senator Finestone .....	1036

**Deferred Maintenance Costs in Canadian Post-Secondary Institutions**

Inquiry—Debate Continued. Senator Gauthier .....	1037
--	------

**The Senate**

Motion to Change Rule 25—Referred to Committee.	
Senator Gauthier .....	1038
Senator Kinsella .....	1038
Motion in Amendment. Senator Kinsella .....	1039

**National Finance**

Committee Authorized to Meet During Sitting of the Senate.	
Senator Finnerty .....	1039









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CANADA

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OFFICIAL REPORT  
(HANSARD)

Thursday, June 7, 2001

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Thursday, June 7, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

[Translation]

Prayers.

### SENATOR'S STATEMENT

**MR. NELSON MANDELA**

REFUSAL TO MAKE HONORARY CITIZEN

**Hon. Donald H. Oliver:** Honourable senators, I rise today to express my shock, dismay and condemnation over the refusal of the other place to adopt unanimously a resolution naming former South African President Nelson Mandela an honorary citizen of Canada.

Nelson Mandela is one of the world's great statesmen. He is a Nobel Laureate and a man respected and revered everywhere.

When I was a young lawyer, honourable senators, I vividly remember reading the cries to "Release Mandela," the human rights activist, who stood up for and spoke out against the intrinsic evils of apartheid. This is a man who was deprived of his freedom and liberty for 27 years, the formative years of his life, and when he emerged to freedom, he did not take revenge or punish or even admonish any of those who had treated him wrongly.

Honourable senators, this is greatness. Such conduct is what moved Nelson Mandela beyond the status of mere mortal and beyond one who would at least flirt with the temptation for revenge. Such conduct elevated him to greatness.

Honourable senators, I went to South Africa as a UN observer when Nelson Mandela won the first ever democratic elections in that country. Whites and Blacks alike voted for this great man. One person called him "an icon of the human spirit."

Honourable senators, I call upon the leadership of the Government of Canada in the Senate to do something to erase the veil of ignominy that has fallen on the Parliament of Canada as a result of the abject refusal on the part of the elected representatives to honour this great man.

**Hon. Senators:** Hear, hear!

### ROUTINE PROCEEDINGS

**AUDITOR GENERAL**

ANNUAL REPORT, 2001-2001 TABLED

**The Hon. the Speaker:** Honourable senators, I have the pleasure of laying on the table the 2000-2001 annual report of the Auditor General on the Privacy Act, pursuant to section 72 of the Privacy Act.

[English]

### SALES TAX AND EXCISE TAX AMENDMENTS BILL, 2001

REPORT OF COMMITTEE

**Hon. E. Leo Kolber,** Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 7, 2001

The Standing Senate Committee on Banking Trade and Commerce has the honour to present its

### SEVENTH REPORT

Your Committee, to which was referred Bill C-13, An Act to amend the Excise Tax Act, has, in obedience to the Order of Reference of Wednesday, May 1, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEO KOLBER  
*Chairman*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

**TOBACCO TAX AMENDMENTS BILL, 2001**

## REPORT OF COMMITTEE

**Hon. E. Leo Kolber**, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 7, 2001

The Standing Senate Committee on Banking Trade and Commerce has the honour to present its

## EIGHTH REPORT

Your Committee, to which was referred Bill C-26, An Act to amend the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco, has, in obedience to the Order of Reference of Thursday, May 17, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEO KOLBER  
*Chairman*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

**INCOME TAX AMENDMENTS BILL, 2000**

## REPORT OF COMMITTEE

**Hon. E. Leo Kolber**, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, June 7, 2001

The Standing Senate Committee on Banking Trade and Commerce has the honour to present its

## NINTH REPORT

Your Committee, to which was referred Bill C-22, An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act, has, in obedience to the Order of Reference of Wednesday, May 30, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEO KOLBER  
*Chairman*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Banks, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1340)

**DEFENCE AND SECURITY**

## BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES AND TRAVEL—REPORT OF COMMITTEE PRESENTED

**Hon. Colin Kenny**, Chair of the Standing Senate Committee on Defence and Security, presented the following report:

Thursday, June 7, 2001

The Standing Senate Committee on Defence and Security has the honour to present its

## FIRST REPORT

Your Committee, which was authorized by the Senate on May 31, 2001, to conduct an introductory survey of the major security and defence issues facing Canada with a view to preparing a detailed work plan for future comprehensive studies, respectfully requests, that it be empowered, to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within and outside Canada for the purpose of such study.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

COLIN KENNY  
*Chair*

(For text of appendix, see today's Journals of the Senate, Appendix "A", p. 658.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kenny, report placed on of the Orders of the Day for consideration at the next sitting of the Senate.



## BUDGET IMPLEMENTATION ACT, 1997 FINANCIAL ADMINISTRATION ACT

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Lowell Murray**, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, June 7, 2001

The Standing Senate Committee on National Finance has the honour to present its

### SIXTH REPORT

Your Committee, to which was referred Bill C-17, An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act, has, in obedience to the Order of Reference of Wednesday, May 30, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY  
*Chairman*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill placed on Orders of the Day for third reading at the next sitting of the Senate.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE PRESENTED

**Hon. Richard H. Kroft**, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, June 7, 2001

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

### SEVENTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2001-2002.

#### Aboriginal Peoples (Legislation)

Professional and Other Services	\$ 6,200
Transport and Communications	\$ 3,000
Other Expenditures	\$ 500
<b>Total</b>	<b>\$ 9,700</b>

RICHARD KROFT  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kroft, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

## SCRUTINY OF REGULATIONS

BUDGET—REPORT “C” OF JOINT COMMITTEE PRESENTED

**Hon. Céline Hervieux-Payette**, Joint Chair of the Standing Joint Committee for the Scrutiny of Regulations, presented the following report:

Thursday, June 7, 2001

The Standing Joint Committee for the Scrutiny of Regulations has the honour to present its

FIRST REPORT — “C”  
(presented only to the Senate)

Your Committee, which is authorized by section 19 of the *Statutory Instruments Act*, R.S.C. 1985, c. S-22, to review and scrutinize statutory instruments, now requests approval of funds to attend the International Conference on Regulations Reform, Management and Scrutiny of Legislation in Sydney, Australia.

Pursuant to Section 2:06 of the *Procedural Guidelines for the Financial Operations of Senate Committees*, the Committee requests that it be empowered to travel outside Canada.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

CÉLINE HERVIEUX-PAYETTE, P.C.  
*Joint Chair*

(For text of report, see today's Journals of the Senate, Appendix “B”, p. 672.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Hervieux-Payette, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## SECOND REPORT OF JOINT COMMITTEE TABLED

Thursday, June 7, 2001

**Hon. Céline Hervieux-Payette:** Honourable senators, I have the honour to table the second report of the Standing Joint Committee on Scrutiny of Regulations on fresh fruit and vegetables.

[English]

## HUMAN RIGHTS

## BUDGET—REPORT OF COMMITTEE PRESENTED

**Hon. A. Raynell Andreychuk,** Chair of the Standing Senate Committee on Human Rights, presented the following report:

Thursday, June 7, 2001

The Standing Senate Committee on Human Rights has the honour to present its

## FIRST REPORT

Your Committee, which was authorized by the Senate on Thursday, May 10, 2001, to examine issues relating to human rights, and *inter alia*, to review the machinery of government dealing with Canada's international and national human rights obligations, now requests approval of funds for 2001-2002.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

RAYNELL ANDREYCHUK

*Chair*

(For text of appendix, see today's Journals of the Senate, Appendix "C", p. 678.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Andreychuk, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CANADA ELECTIONS ACT  
ELECTORAL BOUNDARIES READJUSTMENT ACT

## BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Lorna Milne,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

## EIGHTH REPORT

Your Committee, to which was referred Bill C-9, An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act, has, in obedience to the Order of Reference of May 9, 2001, examined the said Bill and now reports the same without amendment, but with the following observations:

The major impetus for Bill C-9 was the recent ruling of the Ontario Court of Appeal in *Figueroa v. Canada (Attorney General)* in August 2000. The Court held that the sections of the *Canada Elections Act* which provide that only registered parties can have the party affiliation of their candidates listed on the ballot violate the right to vote in section 3 of the *Canadian Charter of Rights and Freedoms* and are not justifiable limits to that right under section 1. The Court found that the right to vote contains an informational component, and the listing of party affiliation on the ballot is an important piece of information for voters. While the provisions in the Act seek to avoid voters being confused or misled, it did not follow that because a political party nominates 49 or fewer candidates, the listing of the party affiliation on the ballot will mislead or confuse voters. In fact, for smaller parties, it may provide the only information that the voter has about that particular candidate. These provisions were therefore declared invalid, but the declaration was suspended for six months to allow Parliament a reasonable opportunity to amend the legislation.

In response to the judgement of the Court of Appeal, Bill C-9 would allow "political parties" — that is, groupings or entities who nominate at least 12 candidates — to have the affiliation of their candidates shown on the ballot. Clause 12 of the bill further provides that in the case of by-elections, only those parties that had nominated at least 12 candidates in the preceding general election are entitled to have their candidates identified on the ballot. This is not, however, any different than is currently the case for new registered parties under the *Canada Elections Act*.

In his appearance before your Committee on May 30, 2001, the Chief Electoral Officer of Canada, Mr. Jean-Pierre Kingsley, stated that while his office had no concerns with the technical and administrative amendments proposed in Bill C-9, he felt that the changes regarding identification of political affiliation of candidates on electoral ballots raise some important issues. In particular, Mr. Kingsley felt that a

candidate representing a political party at a by-election should be allowed to have his or her political affiliation on the ballot, provided the party has fulfilled all the requirements of the *Canada Elections Act*. It, therefore, logically follows that a single candidate representing a political party at a general election, should also be allowed to have his or her political affiliation on the ballot, again provided that the party had met the requisite legislative requirements.

In his appearance before your Committee, the leader of the Christian Heritage Party provided a practical example of how, in his view, the current threshold provisions on ballot identification can work to generate misinformation among voters. Due to the de-registration of the Party, its candidates could not be identified on the ballot during the last general election. Apparently, one member of the party spoiled her ballot because she believed that the Party's candidate was no longer running for the Christian Heritage Party, since he was not identified on the ballot as being endorsed by the Party.

The Chief Electoral Officer also used this example before your Committee in support of his position that a single candidate representing a political party at a general election should be permitted to have his or her political affiliation on the ballot. As well, the Chief Electoral Officer referred to the *Figueroa* decision where the Court pointed out that the Communist Party of Canada (CPC) is a political party within the common understanding of that concept, even though in the general election of 1993, the CPC nominated only seven candidates, and in the general election of 1997, it fielded none at all. The Court noted that the CPC has all the attributes of a party: a leader, officers, a membership, a platform and it chooses and supports candidates for election. Moreover, the CPC is prepared to register and subject itself to the various provisions which regulate the identification of party affiliation on the ballot. In the Court's view, denying candidates of the CPC the right to show their party affiliation on the ballot does nothing to avoid confusing or misleading voters. To the contrary, it denies them information which could assist in determining how to cast their ballot. For example, some (and, history suggests, only a few) will want to cast their ballot in favour of a candidate because he or she is endorsed by the CPC. Others (and, history suggests, the vast majority) would never vote for a candidate endorsed by the CPC. In either case, the voter will be assisted in making an informed choice if the candidate's affiliation with the CPC appears on the ballot.

In response to questions by a member of your Committee concerning the argument that Bill C-9's proposed threshold number of 12 has a certain familiarity and historical

resonance with the House of Commons, Mr. Kingsley drew a distinction between those who are elected and those who are trying to get elected. He stated that it was not clear to him why the threshold for the former should be the same for the latter, and he pointed to the fact that the Court of Appeal in *Figueroa* clearly indicated that it is possible to have different thresholds for different purposes under the Act.

While your Committee sympathizes with the Chief Electoral Officer's view that the political affiliation amendments in Bill C-9 raise some interesting issues, we are cognizant of the fact that the Court of Appeal suspended its declaration of invalidity for a period of only six months commencing August 16, 2000. Your Committee has therefore passed the bill without amendment; however, it is our expectation that this issue will be given due consideration when Mr. Kingsley submits his report on proposed legislative amendments to the *Canada Elections Act*, pursuant to section 535 of the Act. For its part, the Standing Committee on Legal and Constitutional Affairs will continue to monitor these issues in relation to election law and the electoral process.

Respectfully submitted,

LORNA MILNE  
Chair

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Milne, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation from Saudi Arabia led by Dr. Abdulaziz Al Fayed, member of the Consultative (Shura) Council.

• (1350)

They are accompanied by His Excellency Mohammed Raja Al Hussaini, Ambassador to Canada for the Kingdom of Saudi Arabia.

They are guests of the Honourable Senators Rompkey, Milne, Nolin and Prud'homme, and the Honourable Leader of the Opposition, Senator Lynch-Staunton, all of whom visited Saudi Arabia recently.

On behalf of all senators, I bid you welcome to the Senate of Canada.

**Hon. Senators:** Hear, hear!



[Translation]

## L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

MEETING OF MAY 10 TO 12, 2001. REPORT OF CANADIAN DELEGATION TABLED

**Hon. Rose-Marie Losier-Cool:** Honourable senators, pursuant to rule 23(6), I have the honour to table in this house, in both official languages, the report of the Canadian section of the Assemblée parlementaire de la Francophonie and the related financial report. The report concerns the meeting of the policy commission in Port-Louis, Mauritius, from May 10 to 12, 2001.

[English]

## CANADA-EUROPE PARLIAMENTARY ASSOCIATION

COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY MEETINGS FROM MARCH 12 TO 14, 2001—REPORT OF CANADIAN DELEGATION TO POLITICAL AFFAIRS COMMITTEE AND TO STANDING COMMITTEE TABLED

**Hon. Consiglio Di Nino:** Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association to the Political Affairs Committee of the Parliamentary Assembly of the Council of Europe held in Paris, France, on March 12 and 13, 2001 and to the Meeting of the Parliamentary Assembly of the Council of Europe Standing Committee, held in Paris, France, on March 14, 2001.

COUNCIL OF EUROPE PARLIAMENTARY ASSEMBLY MEETING FROM APRIL 23 TO 27, 2001—REPORT OF CANADIAN DELEGATION TO SECOND PART OF 2001 SESSION TABLED

**Hon. Consiglio Di Nino:** Honourable senators, I have the honour to table the report of the Canada-Europe Parliamentary Association to the second part of the 2001 Session of the Parliamentary Assembly of the Council of Europe held in Strasbourg, France, from April 23 to 27, 2001.

## MR FAISAL HUSSEINI

TRIBUTE—INQUIRY

**Hon. Pierre De Bané:** Honourable senators, I give notice that on Tuesday next, June 12, 2001, I will call the attention of the Senate to Mr. Faisal Hussein, one of the great leaders of the Palestinian people, who died on May 31.

## QUESTION PERIOD

### FOREIGN AFFAIRS

SAUDI ARABIA—STATUS OF CANADIAN PRISONER—GOVERNMENT INITIATIVES TO SECURE RELEASE

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I would like to inquire of the Leader of the Government in the Senate as to what steps the Government of Canada is taking to secure the release of Canadian Bill Samson, currently imprisoned in Saudi Arabia, where there are allegations that he has been tortured.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for his question. The issue, of course, is a complex one. Mr. Samson has had charges laid against him. The embassy in Saudi Arabia is ensuring that every safeguard that can be applied by our embassy is applied. However, I think it is also important to put on the record that there is no proof whatsoever that Mr. Samson was in any way tortured.

**Senator Kinsella:** Honourable senators, it is reported in today's *Ottawa Citizen* that Interior Minister Prince Nayef said the Crown Prince of Saudi Arabia had made an "honourable response" to Canadian concerns about the Saudi treatment of a Canadian man imprisoned there.

The unjust campaign in the Canadian press and the remarks by the foreign minister...

— to wit, Mr. Manley —

...has prompted my master, the crown prince, to cancel his visit to Canada.

What has been the statements or position of Mr. Manley, in the view of the government, that has caused the Crown Prince to cancel his visit?

**Senator Carstairs:** The Prime Minister has been informed that the trip has been postponed. It has not been cancelled; it has been postponed. We certainly hope that the Crown Prince will come to Canada. The message that the Crown Prince sent to the foreign ministry offered no specific reason for the postponement of his visit.

**Senator Kinsella:** Honourable senators, Canada is party, as are many other countries, to many international standards with regard to the treatment of prisoners, including the provision of habeas corpus and other rights of prisoners. Given that we have a Canadian citizen who has been detained for over six months in a Saudi prison without being formally charged, how will your government ensure that Canadian citizens abroad are guaranteed the fundamental rights that we expect that all citizens should be enjoying?

**Senator Carstairs:** Honourable senators, clearly, the protection of Canadian citizens, whether they are in this country or abroad, is an important issue. However, there has been no inability on the part of our consulor and ambassadorial staff to meet with Mr. Samson. We were allowed to arrange for his medical examination by a doctor of our choice. That doctor reported on May 31 that the version of events provided by the Saudi authorities and also by Mr. Samson were identical and that the facts are that Mr. Samson's injuries appear to be the result of a struggle with his guards.

The issue of making sure that justice is achieved for Mr. Samson is an ongoing responsibility of our ambassador on the ground.

### NATIONAL DEFENCE

#### REPLACEMENT OF SEA KING HELICOPTERS—SOURCE OF DECISIONS ON PROCUREMENT PROCESS

**Hon. J. Michael Forrestall:** Honourable senators, I have a question for the Leader of the Government in the Senate.

A few weeks ago, on May 15, the Chief of the Air Staff said that he did not know when we would see a replacement for the Sea King helicopter.

Mr. Alan Williams, the Assistant Deputy Minister Materiel for the Department of National Defence, said that he had never seen a split procurement like the present one for the Maritime Helicopter Project.

Could the minister tell us, then, where all of the decisions on defence procurement are being made? Is it in the Deputy Prime Minister's office?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the decisions on the Maritime Helicopter Project are ultimately, of course, the decisions of the Government of Canada. However, those decisions are the result of the best possible advice we can get from our military and the desire of the government to get the best possible pieces of equipment at the lowest possible price.

● (1400)

#### REPLACEMENT OF SEA KING HELICOPTERS—CABINET COMMITTEE OVERSEEING PURCHASE COMPETITION

**Hon. J. Michael Forrestall:** Honourable senators, yesterday, the Prime Minister, in answer to a question in the other place, said that Deputy Prime Minister Gray was not chairing the so-called Gray committee that oversaw the Maritime Helicopter Project.

As the minister knows, because I have quoted from them in the past here in the chamber, I had the officials' agenda pages that

showed the flurry of activity to brief Minister Gray on the helicopter program. Additionally, on March 13, the Minister of National Defence admitted that the Maritime Helicopter Project was being overseen by a cabinet committee chaired by Mr. Gray, the Deputy Prime Minister. Why did the Prime Minister jump to his feet yesterday in the other place to deny the Deputy Prime Minister's involvement in the Maritime Helicopter Project?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Deputy Prime Minister, in this case, had been briefed in exactly the same way. I understand, that the honourable senator has been asking for some weeks that I be briefed. My briefing will take place on Monday. I also understand, however, that it will not make me a process to any decision making other than at the cabinet table.

[Translation]

### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this house three delayed answers: the answer to the question by Honourable Senator Gauthier, raised on April 3, 2001, concerning the Treasury Board and the reform of the public service; the answer to the question by Honourable Senator Buchanan, raised on May 8, 2001, concerning Devco; and the answer to questions raised by Honourable Senator Roche on May 30, 2001 and June 6, 2001, regarding the anti-missile defence.

### TREASURY BOARD

#### REFORM OF THE PUBLIC SERVICE—INVOLVEMENT OF PARLIAMENT

*(Response to question raised by Hon. Jean-Robert Gauthier on April 3, 2001)*

This government is committed to a comprehensive reform of the Human Resources Management systems.

The Task Force on Modernizing Human Resources Management is composed of public service employees and is led by Mr. Ran Quail, a respected senior public servant who has a wealth of knowledge and experience. It is essential that we utilize our knowledge of the current system to make the right changes for the future.

The Task Force was established to provide concrete recommendations that in essence will be the basis of the government's action plan. MP's and Senators will undoubtedly have the opportunity to provide their views and input to the Government on this very important reform.



## CAPE BRETON DEVELOPMENT CORPORATION

### REQUEST FOR UPDATE ON SALE

*(Response to question raised by Hon. John Buchanan on May 8, 2001)*

On May 16, 2001 the Government of Canada announced that it would discontinue the sale of assets process involving Prince mine and would immediately begin an orderly closure of the mine. There will be an immediate cessation of all development work, and the closure will be completed no later than the Fall, 2001.

Efforts to sell the surface assets, including the International Pier, the Devco railroad and the coal lifting/banking centre, will continue and are expected to be successfully concluded.

The Corporation has begun the process of meeting with representatives of the employees affected by the announcement to discuss an appropriate human resources strategy for them.

Concurrent with this announcement, the Government of Canada announced commitments totalling \$28.0 million of additional funds for economic development in Cape Breton, resulting in total federal funding of \$96 million for additional economic development activities on the Island since 1999.

Regarding the offer made by the Cape Breton Cooperative Group, I understand that the Minister of Natural Resources responded to this group on May 16, 2001.

## FOREIGN AFFAIRS

### UNITED STATES—MISSILE DEFENCE SYSTEM—AVAILABILITY OF BRIEFING PAPERS DESCRIBING PROPOSAL—CONSULTATIONS WITH INTERNATIONAL ORGANIZATIONS AND OTHER COUNTRIES—COST TO CANADA

*(Response to questions raised by Hon. Douglas Roche on May 17, 30 and June 6, 2001).*

In their discussions with Canadian officials on May 15, the U.S. delegation did not present any proposals or conclusions regarding the thinking of the Bush administration with respect to a new strategic framework, including missile defence. The U.S. team came to Ottawa to launch a process of official bilateral consultations. While texts of introductory remarks were exchanged to assist note takers, the U.S. delegation did not provide any written material on their proposed strategy or missile defence system noting that their plans are still in a preliminary stage.

Canada is already engaged in a dialogue on these issues with our NATO allies, as well as with Russia and China. Minister Manley will pursue these issues within the Alliance during the May 29-30 NATO Foreign Ministers' Meetings

in Budapest. The meetings of Alliance Defence Ministers June 7-8 and the informal NATO Summit to be held June 13 will be further occasions to discuss this issue with our allies. Prime Minister Chrétien has discussed missile defence with both the leaders of Russia and China. He has underscored the importance of continuing discussions. We will continue to take the views of our allies, of Russia and China, and of other concerned countries into consideration in determining Canada's approach to these important issues.

The new U.S. administration has only just begun its consultations with friends and allies on missile defence and it is still reviewing its plans. The U.S. has not taken any decisions itself on the architecture of the system. Consequently, it is not known what the system might cost. Until the architecture is defined more fully, and until the Canadian government has decided whether and how it might participate, we cannot begin to consider the question of costs. President Bush spoke of a system capable of protecting friends and allies and the "common responsibility" they share with the U.S. to provide protection. What this might mean in terms of eventual costs has yet to be elaborated.

*[English]*

## PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker:** Honourable senators, before proceeding to Orders of the Day, I should like to introduce to you visiting pages from the House of Commons.

On my right is Crystal Chipuer. She is enrolled in the Faculty of Arts at the University of Ottawa, and she comes from St. Albert, Alberta. Welcome.

On my left is Monique Moreau of Calgary, Alberta. I say with pride. She is pursuing her studies in the Faculty of Arts at the University of Ottawa. Her major is communications. Welcome.

Ceilidh Purdy, who is enrolled in the Faculty of Arts at the University of Ottawa, is from Sackville, Nova Scotia. Welcome.

**Hon. Senators:** Hear, hear!

## ORDERS OF THE DAY

### CUSTOMS ACT

#### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Mercier, for the third reading of Bill S-23, to amend the Customs Act and to make related amendments to other Acts, as amended:



And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Simard, that the Bill, as amended, be not now read a third time but that it be further amended in clause 59:

(a) on page 64, by deleting lines 25 to 37; and

(b) on pages 64 and 65, by renumbering subclauses (5) and (6) as subclauses (4) and (5) and any cross-references thereto accordingly.

**Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, I wish to discuss with you this afternoon why the government and, indeed, Liberal senators do not believe that the motion in amendment raised by the Honourable Senator Murray is valid either from a public policy or a legal basis point of view. We believe strongly that the present bill reflects changes that are both necessary and valid. I understand that in the committee itself a great deal of debate took place with respect to this specific concept and the view of the majority of the senators at the committee was that it was not a valid position.

The provisions which are presently in the bill, to which Senator Murray takes some exception, are necessary. They are necessary to ensure that the export control legislation is enforced in the postal system. Currently, goods being exported from Canada may be examined to ensure compliance with Canada's export control legislation. However, these changes are necessary to clarify that goods being exported through the postal stream may be examined as separately specified in the Customs Act for the examination of import mail.

Without these changes, if controlled or embargoed goods are exported through the postal stream, CCRA officials would not have the authority to examine or detain these goods, even though they may be aware of the goods and their exportation as a result of targeting intelligence information. These goods could include strategic computer technology being sent to embargoed countries, or pieces or parts of bombs or explosives.

Currently, under the Customs Act, mail weighing over 30 grams imported into Canada may only be opened when officials suspect, on reasonable grounds, that they contain goods referred to in the Customs Tariff or goods which are prohibited, controlled or regulated. What is being sought for the examination of export mail is the same authority and the same standard for examination — suspicion on reasonable grounds — as for the examination of import mail. This standard for examination has been approved in Charter challenges by the higher court.

Also noted by departmental witnesses during the said committee review, the Privacy Commissioner did review the law and practices related to the examination of import mail and concluded that the activities of CCRA officials in examining mail are carried out lawfully, in good faith and for the legitimate policy reason of intercepting fraudulent goods and/or documents.

Honourable senators, these changes are necessary to ensure that the postal stream does not become a legal means of bypassing Canada's export controls.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** Will those honourable senators in favour of the motion in amendment please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those honourable senators opposed to the motion in amendment please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** I my opinion, the "nays" have it.

I declare the motion in amendment lost, on division, on a voice vote.

**The Hon. the Speaker:** Is the house ready for the question on Bill S-23, as amended?

{Translation}

**Hon. Roch Bolduc:** Honourable senators, I should like to come back to an issue which is dear to my heart and which concerns the Canada Customs and Revenue Agency.

This is what is known as a special operating agency. It has a broad mandate and will collect taxes from everyone. The federal government is raking money in!

This agency of 40,000 employees is responsible for collecting income, sales, commodity and customs taxes.

I tried to have it pointed out to the head of this agency that staff recruitment and promotion should be on the basis of merit and competence. In reality, this is the former Department of National Revenue, which was always governed by the Public Service Employment Act. The recruitment of career public servants, which is done on the basis of merit and competence, is an important principle in the public service and is measured in only one way.

Competence is generally measured by boards. The only way this can be done is through competition among candidates. This remains a relative and not an absolute competence, and it must be measured by means of a competition system which is not provided for in the bill.

Honourable senators, last year, you will recall that I had insisted that the bill be amended. I am not saying that Public Service Commission procedures must be followed, but simply that it must be ensured that the people collecting our money are the most competent to do so, whether they are in Ottawa, Toronto, Montreal or anywhere else in Canada.

In an agency of this size — I repeat — the staff recruitment and promotion system should be based on competence and should be provided for in the legislation, so that the head and the managers of the agency are obliged to respect this principle. Otherwise, I am telling you, there will be patronage!

The worst patronage is not that of ministers, but that of employees themselves, because they are promoting one another.

• (1410)

We need measures that will protect us, particularly in an organization such as the Canada Customs and Revenue Agency, which collects our money. Otherwise, if rules of competence are lacking, there may be no rules of ethics, and without them, our tax returns will be wandering all over the place.

This is what we saw last year, when tax returns were travelling back and forth between Human Resources Development Canada and the Department of National Revenue. This needs to be stopped as soon as possible. It is important that the bill include rules of ethics.

Today, I am not going to try to convince my colleagues opposite, who do not wish to support an amendment to the bill. I find it terrible that they did not vote for such an amendment last year. This amendment only makes sense. It respects and protects the public interest of Canadians.

[English]

**The Hon. the Speaker:** I see no other senator rising. Is the house ready for the question?

**Hon. Senators:** Yes.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed, as amended.

#### **ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE ACT PETRO-CANADA PUBLIC PARTICIPATION ACT**

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

**Hon. Tommy Banks** moved third reading of Bill C-3, to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act.

He said: Honourable senators, I rise to speak at third reading of this bill, and I have before me an exhaustive speech. However, I will curry the favour of honourable senators because the sun, and other matters, are beckoning us. I will be as succinct as I possibly can.

I know that honourable senators paid remarkably close attention to my speech at second reading and are therefore familiar with the content of this bill, which deals with reorganizing the ownership of Eldorado Nuclear, as it was once called — it is now called Conoco — and Petro-Canada.

This bill has received glaring scrutiny in the committee to which it was referred. That committee has reported on the bill. It is a good bill. It allows Petro-Canada and Conoco to be more competitive in the global market, which is good for our country.

I would be delighted to answer any questions that honourable senators may have. I simply urge honourable senators to vote now to pass this good bill.

On motion of Senator Kinsella, for Senator Eyton, debate adjourned.

#### **CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL**

THIRD READING—DEBATE ADJOURNED

**Hon. Nick G. Sibbeston** moved the third reading of Bill C-4, to establish a foundation to fund sustainable development technology.

He said: Honourable senators, I am pleased to speak today on the outcome of discussions in the Standing Senate Committee on Energy, Environment and Natural Resources regarding the Canada Foundation for Sustainable Development Technology bill. When I spoke to honourable senators on April 26, 2001, I described the foundation as being an arm's length organization to administer a \$100-million fund announced in the government's February 2000 budget. It will provide a new vehicle for engaging Canadians and fostering the long-term collaboration that is necessary to tackle the enormous challenge of sustainable development.

The current focus of the foundation will be on two important topics — climate change and clean air. It will concentrate on developing new technologies to deal with the problem of global warming, such as technologies to reduce greenhouse gas emissions; on making energy systems less carbon-intensive; on increasing energy efficiency; and on capturing, using and storing carbon dioxide. Bill C-4 provides a mechanism to engage the private sector in working harder in these areas.



I should like to point out to honourable senators how Bill C-4 demonstrates the government's commitment to developing partnership to spur technology innovation. The foundation will give funding support to collaborative arrangements composed of private sector corporations and partners including technology developers, suppliers and users, universities, not-for-profit organizations, and industrial research associations. This will ensure that maximum impact is derived through the shared effort and expertise of partnered organizations.

The foundation will help develop and demonstrate new sustainable development technologies from the laboratory bench out into the Canadian economy. It will bring new money into the system and put it to work.

I will now update honourable senators on Parliament's review of Bill C-4. The Minister of Natural Resources appeared twice before the Standing Senate Committee on Energy, Environment and Natural Resources to discuss details of the proposed legislation. On behalf of the minister, I wish to thank the members of the committee for their interest in the bill and the opportunity given for the minister to answer questions and address their concerns.

Members of the committee discussed two main issues with the minister. First, there is the process the government has used to handle the \$100-million allocation from Budget 2000 for the sustainable development technology fund. Second, some committee members expressed concern about the role of the Auditor General with respect to how the Canada Foundation for Sustainable Development Technology will be audited.

The government contracted with a private sector foundation only to ensure that the \$100 million that the government targeted in fiscal year 2000-2001 for funding sustainable development technologies would indeed be available for this purpose. In so doing, the government followed an approach that is completely consistent with the legal principles of both the government and the Canada Business Corporations Act.

Honourable senators, Bill C-4 provides for the continuation of the private sector foundation as the legislated Canada Foundation for Sustainable Development Technology. This two-track approach reflects the importance of delivering the sustainable development technology fund initiative for Canadians and respecting the role of Parliament in determining how this happens. The government is strongly committed to establishing an organization legislated by Parliament to accomplish these specific objectives.

• (1420)

Although the Senate committee has approved Bill C-4 without amendment, it tabled its report to the Senate with an observation in respect of this issue. Some committee members expressed concern that the foundation is not directly accountable to the

Auditor General of Canada. However, the Auditor General will review the procedure for channelling the \$100-million allocation through Environment Canada and Natural Resources Canada. She will also review the terms of the funding agreement between the government and the foundation.

With respect to assessing the value-for-money performance of the foundation, the funding agreement also calls for both interim and final evaluations. The foundation will be audited by an independent professional auditor and will operate in accordance with generally accepted accounting principles. The audit report will be part of the foundation's annual report, which the Minister of Natural Resources will table in Parliament.

The foundation will hold an annual public meeting to provide a venue for communicating the results achieved and the disclosure of information on funded proposals. Taken together, these requirements will ensure the prudent operation of the foundation, if Parliament approves Bill C-4.

The government also believes there is an important role for the committees of the Senate and the House of Commons. Both committees can ensure that the foundation fulfils the responsibilities entrusted to it by Parliament, by following the foundation's progress and, if necessary, by asking questions about its future performance.

Sustainable development technology innovation that is specifically focused on climate change and air quality will address some of the challenges that lie ahead. The foundation proposed in Bill C-4 will make a strong contribution to finding solutions to the problems that Canada faces now and will face in the future.

**Hon. John Lynch-Staunton (Leader of the Opposition):**

Honourable senators, I was struck yesterday when Senator Taylor read the observations of the committee, which are an appendix to the report on Bill C-4, but I did not realize how harsh the words were until I read them this morning. For those honourable senators who may have missed them, I will read that appendix. In effect, the committee is more than disturbed with the fact. I quote:

...and the depositing of \$100 million of taxpayers' money with that corporation, without the prior approval of parliament is an affront to members of both Houses of Parliament.

Honourable senators, if it is an affront, and I believe it is, after the committee's assessment of the bill and the way in which the \$100 million has been transferred without parliamentary approval, I find it difficult to support such a bill. By doing so, I would be supporting the affront.

Is Senator Sibbeston able to reconcile what he has proposed with the statement of the committee?



**Senator Sibbeston:** Honourable senators, I respond to that by simply stating what I heard from the minister. Minister Goodale believed that he had the mandate and, in a sense, the obligation to deal with the \$100 million that was provided for in last year's budget. The minister stated that he had the ability and capacity to use those budget-approved funds for the sustainable development foundation, which has been set up through the Canada Business Corporations Act.

It is my understanding that this body was set up by the government in March 2001. The government has the capacity and the ability to provide funds that have been approved in the budget. Simply stated, the minister indicated that if he did not do that, the money would lapse.

Thus, honourable senators, there was an onus to deposit the approved monies with the corporation that had been set up. In that way, work for which the money was approved could begin. That is my understanding of what transpired.

**Senator Lynch-Staunton:** Honourable senators, that may be the minister's interpretation, but somehow I give more credibility to the assessment of the members of committee. In its short report, the committee stated:

The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process.

That was in one of our committee reports. While I may respect the interpretation given to the minister's discretion, I give more weight today to the conclusion of the committee.

Certainly, we are not ready to give approval today to Bill C-4, until we receive better satisfaction than, unfortunately, Senator Sibbeston has given us.

**Hon. David Tkachuk:** Honourable senators, did the minister address the issue of the distribution of grants from the \$100 million? Was there any discussion in committee about the grants, which will be handed out by the foundation, and the distributing of them directly through the department?

**Senator Sibbeston:** Honourable senators, the minister indicated that a foundation has been set up and it is in a holding pattern until the legislation comes into effect. The legislation will provide for a foundation, its powers and its mandate. My understanding is that the foundation has been set up temporarily under the Canada Business Corporations Act. The foundation is on hold until the legislation is properly passed, at which time the foundation would become active in respect of the management and the handling of its funding.

**Senator Tkachuk:** I am a little confused, honourable senators. I understood that the legislation would establish the foundation. The honourable senator has told us that the foundation exists and the money has been allocated. Was the money in the estimates? I thought Bill C-4 was for the purpose of establishing the foundation, so it cannot be set up yet.

**Senator Sibbeston:** When the minister appeared before the committee, he indicated that the government had a number of ways that it could have dealt with this matter, one way being through the department. Another way was to set up a foundation pursuant to Bill C-4. In the interim, in the interests of not allowing the money to lapse, the government proceeded to set up a corporation that will hold the money until the bill is passed, when there will be a properly constituted foundation. That is my understanding of what transpired.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** May I ask Senator Sibbeston if it is, in his view, good public administrative practice for a department or a minister who believes that monies voted through the estimate process will lapse to rush out to find a way to have that money expended? Is that the principle upon which the honourable senator is supporting this bill?

**Senator Sibbeston:** May I ask the honourable senator to repeat his question?

**Senator Kinsella:** The honourable senator advised the house in his speech at third reading that it is money that might be left over and the minister would not want that money to lapse. Therefore, the minister had that money deposited to this new agency. I am concerned with the public administration principle of whether the honourable senator believes that to be good practice — to find a way to spend money that has appeared in the estimates simply because it might lapse.

• (1430)

Surely it is a much more secure system of estimates to identify, through the estimate process, what you will spend your money on, and to then present that information and allow Parliament to vote on the expenditure with a particularized vote.

**Senator Tkachuk:** I understand what the honourable senator said in his address on third reading. I also understand that the honourable senator is not only the sponsor of the bill but also a member of the committee that will study it.

Senator John Lynch-Staunton read into the record the observations of the committee. Does the honourable senator agree with the observations of the committee on this bill? Those observations seem to contradict what he said in his speech.

**Senator Sibbeston:** Honourable senators, I am simply sponsoring the bill. My responsibility is to provide information about it. I am not in a position to justify how the minister has handled the matter. I am convinced and satisfied that the government has acted in a proper manner in dealing with the matter, but that is the extent to which I can answer the question. As to whether this is good practice, I really am not in a position to comment. I am satisfied that the government has acted in a proper and appropriate manner in dealing with the monies and in setting up the Foundation for Sustainable Development Technology in Canada under the Canada Business Corporations Act, Part II. I understand the money is in a holding pattern until this bill is passed. Then the force and all the provisions in the bill will apply to the foundation.

**Senator Tkachuk:** I have one more question for the Honourable Senator Sibbeston. I am not sure whether the honourable senator agrees with the committee report. I will follow up with another important question. As legislators and senators and members of Parliament, we have all dealt with questions on how we treat the public purse.

I heard the honourable senator say in his speech that the foundation would be accountable to the Auditor General. The more important question is: Does the honourable senator feel that the foundation is directly accountable to Parliament?

**Senator Sibbeston:** Honourable senators, my answer is yes, of course. I heard the discussions in the committee with respect to the role of the Auditor General. It is my impression that it is not unusual that corporations that are at arm's length from government be accounted by ordinary auditors in the country. Once that is done, it is my understanding that it is the practice that the Auditor General review them. It is not a departure from the regular way that arm's length entities and federal corporations are audited in our government.

**Senator Lynch-Staunton:** Honourable senators, the main apprehension here is not about the foundation itself. It is the fact that a foundation, which has yet to be given parliamentary approval and Royal Assent, has already been allocated \$100 million. The question is: How can the government find \$100 million for an entity which has yet to be created and designated as such?

The committee, I am sure, did not use these words lightly when it called that procedure an affront to members of both Houses. It made a strong recommendation, using the term "demand" in French which is stronger than "request." Since we approved the report yesterday, I assume we are also supporting these observations. They request that the Speaker of our house notify the Speaker of the other place of the concern of the Senate with regard to its circumvention of the parliamentary process. Until an answer is given which is satisfactory, we will not support this bill.

On motion of Senator Kinsella, for Senator Cochrane, debate adjourned.

## BROADCASTING ACT

### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Hervieux-Payette, P.C., for the third reading of Bill S-7, to amend the Broadcasting Act.—(*Honourable Senator Kinsella*).

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, this bill was sponsored by Senator Finestone and she spoke to it yesterday. I endorse what she has

said. I had the opportunity to speak in some detail on this bill at second reading. What I like most about the bill is the level playing field it gives to all Canadians who are interested in participating in the approval processes and so forth. I think that is a great step forward. It is a principle which this house should be embracing. I salute my colleague Senator Finestone and I am happy to support the bill at third reading.

**The Hon. the Speaker pro tempore:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

[Translation]

## FRENCH-LANGUAGE BROADCASTING SERVICE

### INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada.—(*Honourable Senator Losier-Cool*).

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I am pleased to take part in the debate on the inquiry of the Honourable Senator Gauthier, and to support my colleague on the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting in francophone minority communities across Canada.

It is my opinion that, in order to reflect the true picture of Canada's francophone minority communities, there must be more quality broadcasting available, via the traditional public and private broadcasters, as well as the educational, specialized and community networks. These services are essential to lend a voice and a face to our communities that truly reflect their reality.

On February 12, the CRTC released a report on the delivery of public, private and community radio and television services in the French language to Canadian communities where francophones are in the minority. The CRTC also looked closely at the Broadcasting Act, which stipulates that the Canadian broadcasting system should reflect the linguistic duality and cultural diversity of Canada and that a range of broadcasting services in English and in French shall be extended to all Canadians as resources become available.



Honourable senators, a healthy linguistic duality is essential to the core of the Canadian broadcasting system. This linguistic duality is a great treasure, one that confers numerous advantages on all Canadians. As well, it is the foundation of a tolerant society that is open to the rest of the world.

In addition, in its report, the CRTC advocates increased production of quality programs, reflecting the reality of francophone minorities. More French-language regional productions and more frequent use of independent producers from francophone and Acadian communities in Canada.

Our encouragement of industries from minority francophone communities and of industries working to meet their needs is vital. We enable them to create and develop products that directly meet the needs of the community.

These programs produced by and for francophones enable them to identify with their language and regional culture and create strong ties with the other francophone regions of Canada. The ties formed between francophone Canadians are essential. They enable us to develop a cultural identity from one end of the country to the other.

The CRTC must not only encourage increased production of quality French programming, but it must always be attentive to the francophone communities and their needs in this regard.

The CRTC must also be very sensitive to the needs of our minority francophone communities to be sure to respond to their broadcasting needs.

In this regard, the Société des Acadiens et Acadiennes du Nouveau-Brunswick and the Société nationale de l'Acadie both supported a recommendation proposing the establishment of a national public television network devoted entirely to minority Acadian and francophone communities in Canada during consultations the CRTC held in Dieppe, New Brunswick.

There are as well the francophones in British Columbia, who, adding continually to their numbers solid and dynamic individuals to ensure their growth and development. Francophone communities like those in British Columbia have a greater need for French-language broadcasting services.

I will conclude by saying that all Canadians benefit from our support of Canada's linguistic duality, whether it is through our support of broadcasting in French or through other initiatives designed to establish ties between francophones in Canada and, in so doing, with all the francophiles in the country.

**Hon. Shirley Maheu (The Hon. the Acting Speaker):** Honourable senators, if no one else wishes to speak, this inquiry is considered debated.

[English]

## ETHICS COUNSELLOR

### MOTION TO CHANGE PROCESS OF SELECTION—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator DeWare:

That the Senate endorse and support the following policy from Liberal Red Book 1, which recommends the appointment of "an independent Ethics Counsellor to advise both public officials and lobbyists in the day-to-day application of the Code of Conduct for Public Officials. The Ethics Counsellor will be appointed after consultation with the leaders of all parties in the House of Commons and report directly to Parliament.";

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with this decision of the Senate.—(*Honourable Senator Finnerty*).

**Hon. Lorna Milne:** Honourable senators, I understand that Senator Finnerty wishes to speak to this motion at some time in the future, as do I. May I make this short sentence or two as a response to the debate right now and then adjourn it in my name?

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, Senator Finnerty will address this issue on Monday. Senator Milne could then make her speech at that point. I move that this item on the Order Paper stand.

Order stands.

## ILLEGAL DRUGS

### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. Pierre Claude Nolin,** pursuant to notice of June 6, 2001, moved:

That the Special Committee on Illegal Drugs have power to sit on Monday next, June 11, 2001, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

He said: Honourable senators, I move that this motion be adopted.



[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I want to put on the record that we support the motion of Senator Nolin to sit on Monday. We do not normally do this when it is not for a minister and the Senate is sitting. However, I thank Senator Nolin and his committee for consistently sitting on Monday afternoons throughout this study, outside of the Tuesday, Wednesday and Thursday sitting. As we have made the decision to sit on Monday, I do not want this particular committee to not be able to hear its witnesses, as I know this has been a long-term plan of the committee. I thank the Honourable Senator Nolin for his actions in this regard.

[Translation]

**Senator Nolin:** Honourable senators, when we learned that the Senate wished to sit at 4:00 p.m. next Monday, we decided to cut back on the hour usually set aside for lunch in order to hear from witnesses, so that we could be here at 4:00 p.m.

In committee, witnesses often raise more questions from our colleagues, and that is why we have decided to be cautious and make this request to meet during the sitting of the Senate. We will do everything in our power to be here at 4:00 p.m.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

## FOREIGN AFFAIRS

### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

**Hon. A. Raynell Andreychuk,** pursuant to notice of June 6, 2001, moved:

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:30 p.m. Monday, June 11, 2001, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I should like to ask a question of the chair of the committee. Would she inform the Senate if the reason the committee desires to sit is because it is hearing from the Minister of Foreign Affairs?

**Senator Andreychuk:** Honourable senators, that is precisely the reason. Minister Manley has consented to appear before the committee from 3:30 to 5:00 p.m. on Monday. In fact, the date originally proposed was Thursday. We suggested that this date did not suit our rules and he kindly moved it to Monday to accommodate us. That is why I have moved this motion.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators to adopt motion?

**Hon. Senators:** Agreed.

Motion agreed to.

[Translation]

## ADJOURNMENT

Leave having been given to revert to Notices of Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday next, June 11, 2001, at 4:00 p.m.

**The Hon. the Speaker *pro tempore*:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Monday, June 11, 2001, at 4:00 p.m.

**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(1st Session, 37th Parliament)**  
**Thursday, June 7, 2001**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10		
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02		
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04		
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01		
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07		
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15		

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0			
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0			
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30							
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06		
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0			
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29		
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0			
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications					
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0			
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance					
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0			
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0			



## COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5			
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Privileges, Standing Rules and Orders					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Privileges, Standing Rules and Orders					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15		
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn 01/05/10)					
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Energy, the Environment and Natural Resources					
				Transport and Communications					

S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12	
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13	Subject-matter 01/04/26 Social Affairs, Science and Technology
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05 Transport and Communications

## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02		
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31		
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31		





# CONTENTS

Thursday, June 7, 2001

	PAGE		PAGE
<b>SENATOR'S STATEMENT</b>		<b>Council of Europe Parliamentary Assembly Meeting from April 23 to 27, 2001—Report of Canadian Delegation to Second Part of 2001 Session Tabled. Senator Di Nino</b> . . . . .	
<b>Mr. Nelson Mandela</b>			1045
Refusal to Make Honorary Citizen. Senator Oliver	1040	<b>Mr Faisal Hussein</b>	
		Tribute—Inquiry. Senator Bané	1045
<b>ROUTINE PROCEEDINGS</b>		<b>QUESTION PERIOD</b>	
<b>Auditor General</b>		<b>Foreign Affairs</b>	
Annual Report, 2001-2001 Tabled.	1040	Saudi Arabia—Status of Canadian Prisoner—Government Initiatives to Secure Release. Senator Kinsella	1045
<b>Sales Tax and Excise Tax Amendments Bill, 2001 (Bill C-13)</b>		Senator Carstairs	1045
Report of Committee. Senator Kolber	1040	<b>National Defence</b>	
<b>Tobacco Tax Amendments Bill, 2001 (Bill C-26)</b>		Replacement of Sea King Helicopters—Source of Decisions on Procurement Process. Senator Forrestall	1046
Report of Committee. Senator Kolber	1041	Senator Carstairs	1046
<b>Income Tax Amendments Bill, 2000 (Bill C-22)</b>		Replacement of Sea King Helicopters—Cabinet Committee Overseeing Purchase Competition. Senator Forrestall	1046
Report of Committee. Senator Kolber	1041	Senator Carstairs	1046
<b>Defence and Security</b>		<b>Delayed Answers to Oral Questions</b>	
Budget and Request for Authority to Engage Services and Travel—Report of Committee Presented.		Senator Robichaud	1046
Senator Kenny	1041	<b>Treasury Board</b>	
<b>Budget Implementation Act, 1997</b>		Reform of the Public Service—Involvement of Parliament. Question by Senator Gauthier.	
<b>Financial Administration Act (Bill C-17)</b>		Senator Robichaud (Delayed Answer)	1046
Bill to Amend—Report of Committee. Senator Murray	1042	<b>Cape Breton Development Corporation</b>	
<b>Internal Economy, Budgets and Administration</b>		Request for Update on Sale. Question by Senator Buchanan.	
Seventh Report of Committee Presented. Senator Kroft	1042	Senator Robichaud (Delayed Answer)	1047
<b>Scrutiny Of Regulations</b>		<b>Foreign Affairs</b>	
Budget—Report "C" of Joint Committee Presented.		United States—Missile Defence System—Availability of Briefing Papers Describing Proposal—Consultations with International Organizations and Other Countries—Cost to Canada. Question by Senator Roche.	
Senator Herveux-Payette	1042	Senator Robichaud (Delayed Answer)	1047
Second Report of Joint Committee Tabled.		<b>Pages Exchange Program with House of Commons</b>	
Senator Herveux-Payette	1043	The Hon. the Speaker	1047
<b>Human Rights</b>		<b>ORDERS OF THE DAY</b>	
Budget—Report of Committee Presented.		<b>Customs Act (Bill S-23)</b>	
Senator Andreychuk	1043	Bill to Amend—Third Reading. Senator Carstairs	1048
<b>Canada Elections Act</b>		Senator Bolduc	1048
<b>Electoral Boundaries Readjustment Act (Bill C-9)</b>		<b>Eldorado Nuclear Limited Reorganization and Divestiture Act</b>	
Bill to Amend—Report of Committee. Senator Milne	1043	<b>Petro-Canada Public Participation Act (Bill C-3)</b>	
<b>Visitors in the Gallery</b>		Bill to Amend—Third Reading—Debate Adjourned.	
The Hon. the Speaker	1044	Senator Banks	1049
<b>L'assemblée parlementaire de la Francophonie</b>			
Meeting of May 10 to 12, 2001. Report of Canadian Delegation Tabled. Senator Losier-Cool	1045		
<b>Canada-Europe Parliamentary Association</b>			
Council of Europe Parliamentary Assembly Meetings from March 12 to 14, 2001—Report of Canadian Delegation to Political Affairs Committee and to Standing Committee Tabled. Senator Di Nino	1045		

**Canada Foundation for Sustainable Development  
Technology Bill (Bill C-4)**

Third Reading—Debate Adjourned, Senator Sibbeston .....	1049
Senator Lynch-Staunton .....	1050
Senator Tkachuk .....	1051
Senator Kinsella .....	1051

**Broadcasting Act (Bill S-7)**

Bill to Amend—Third Reading, Senator Kinsella .....	1052
---	------

**French-Language Broadcasting Service**

Inquiry, Senator Losier-Cool .....	1052
Senator Maheu .....	1053

**Ethics Counsellor**

Motion to Change Process of Selection—Order Stands, Senator Milne .....	1053
--	------

Senator Robichaud .....	1053
-------------------------	------

**Illegal Drugs**

Committee Authorized to Meet During Sitting of the Senate, Senator Nolin .....	1053
Senator Carstairs .....	1054

**Foreign Affairs**

Committee Authorized to Meet During Sitting of the Senate, Senator Andreychuk .....	1054
Senator Carstairs .....	1054

**Adjournment**

Senator Robichaud .....	1054
-------------------------	------

<b>Progress of Legislation</b> .....	1
--------------------------------------	---

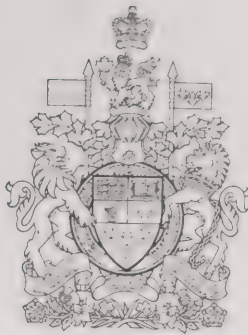








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CANADA

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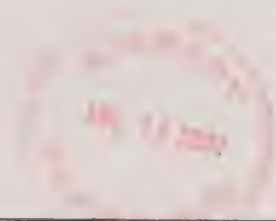
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OFFICIAL REPORT  
(HANSARD)

Monday, June 11, 2001

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THE HONOURABLE DAN HAYS  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Monday, June 11, 2001

The Senate met at 4:00 p.m., the Speaker in the Chair.

[Translation]

Prayers.

### SENATOR'S STATEMENT

#### THE LATE AL MUNROE

##### TRIBUTE

#### **Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, last evening in Winnipeg I lost my very best political friend. Those of us who have been active politicians in other chambers, and particularly those who have had leadership roles, know only too well that we receive the limelight, the adulation and sometimes the criticism given to public officials. However, behind each and every one of us are the tireless volunteers and employees who work so very hard to ensure our success. Such a person was Al Munroe who died last evening following a massive stroke.

Al Munroe arrived in my office shortly after I became Leader of the Liberal Party of Manitoba in 1984. He announced that he had a car and would travel. He then went on to say that he would take me anywhere in the province if I would pay for his gas. That is how our political relationship began and how we worked daily together for the next 10 years.

Al and I travelled 400,000 kilometres together throughout the province, prompting one newspaper man in Flin Flon to comment, "Are you here again?" It was Al Munroe who ensured that I always had a full slate of candidates — not easy in those beginning years with less than 6 per cent of the popular vote. Of course, there was always the gentle hint from me that if he did not find a candidate he would have to do it himself. He never let me down.

Al was much more than an organizer and a driver. He was my friend, companion on the road, adviser and supporter through political and family crises. When I wrote my book *Not One of the Boys*, I shared the proceeds with Al because it was just as much his book as mine.

Al leaves to mourn his wife, Lorraine; his sons Fred, Ken, Don and Dick; and his eight grandchildren, to whom John and I express our deepest sympathy.

Al Munroe was a true Canadian. He believed in democracy and, yes, he believed in the Liberal Party. Above all, he believed in family, and I was an honorary member of that family. He was, in part, my father and, in part, my big brother. I will miss him dearly.

### ROUTINE PROCEEDINGS

#### INFORMATION COMMISSIONER

##### ANNUAL REPORT TABLED

**The Hon. the Speaker:** Honourable senators, I have the pleasure of laying on the table the 2000-2001 annual report of the Information Commissioner, pursuant to section 38 of the Access to Information Act.

[English]

### THE SENATE

#### REPORT OF MISSION TO SAUDI ARABIA AND QATAR, JANUARY 18-25, 2001

**Hon. Bill Rompkey:** Honourable senators, the Honourable Gildas Molgat, Speaker of the Senate, led a Senate mission to Saudi Arabia and Qatar from January 18 to 25, 2001 at the invitation of the Speakers of the Consultative Councils, Majlis Ash Shura, of those two countries. On behalf of the late Honourable Gildas Molgat, I have the honour to table the report of that mission.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

### STUDY ON NUCLEAR REACTOR SAFETY

#### INTERIM REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE TABLED

**Hon. Nicholas W. Taylor:** Honourable senators, I have the honour to table the sixth report of the Standing Senate Committee on Energy, the Environment and Natural Resources which deals with a special study on nuclear reactor safety.

### PARLIAMENT OF CANADA ACT MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT SALARIES ACT

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-28, to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading at the next sitting of the Senate.

[Translation]

## BROADCASTING ACT

### BILL TO AMEND—FIRST READING

**Hon. Jean-Robert Gauthier** presented Bill S-29, to amend the Broadcasting Act (review of decisions).

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Gauthier, bill placed on the Orders of the Day for second reading two days hence.

[English]

## NATIONAL FINANCE

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

**Hon. Bill Rompkey:** Honourable senators, I give notice that on Tuesday next, June 12, 2001, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report on the effectiveness of the present equalization policy in ensuring that provincial governments have sufficient revenues to provide reasonably comparable levels of public service at reasonably comparable levels of taxation; and

That the Committee report no later than December 21, 2001.

• (1610)

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Marjory LeBreton:** Honourable senators, I give notice on behalf of the Honourable Senator Michael Kirby that on Tuesday next, June 12, 2001, he will move:

That the Standing Senate Committee on Social Affairs, Science and Technology have the power to sit on Wednesday, June 13, 2001, at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[Translation]

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY RENEWAL OF BROADCASTING CONTRACT WITH CPAC

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that, on Tuesday next, I will move:

That the Standing Committee on Internal Economy, Budgets and Administration be authorized to examine and report upon the renewal of the television broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel), so that it includes the subtitling of parliamentary debates authorized on television and the renewal of this agreement follows up on CPAC's commitments concerning services to the hearing impaired.

[English]

## QUESTION PERIOD

### NATIONAL DEFENCE

#### REPLACEMENT OF SEA KING HELICOPTERS—INVOLVEMENT OF DEPUTY PRIME MINISTER IN CABINET COMMITTEE OVERSEEING PURCHASE COMPETITION

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate.

Last week, the Prime Minister at one point said "no," but I think when he clarified the matter he indicated that the Deputy Prime Minister was charged with overseeing the Maritime Helicopter Project to look at, among other things, establishing the process for receiving bids. We know that DaimlerChrysler is within the Windsor area, the area of primary concern to Minister Gray. We also know that DaimlerChrysler is a parent company of Eurocopter.

Can the Leader of the Government tell us if the Deputy Prime Minister has continued his oversight of the Maritime Helicopter Project up until today or, if it has stopped, as of what date the directive from the Prime Minister ceased?



**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question. I want him to know that I had a very thorough briefing this morning on the Maritime Helicopter Project. It went on for an hour and a half. I learned a great deal. It is the kind of information that I hope we can make available to all members of this chamber when the Committee of the Whole meets next fall.

In terms of the specific question asked by the honourable senator, indeed, a cabinet group has been examining the helicopter project. However, I want to make it absolutely clear that the parameters of the game in terms of the specifications come not from that committee but from the requirements of our military forces.

**Senator Forrestall:** Honourable senators, does the minister see no potential conflict in Mr. Gray continuing to chair that committee?

**Senator Carstairs:** Honourable senators, I do not see any conflict with any minister. I was delighted with the decision that we would have two parts to the process and, therefore, two biddable programs to which many could apply: one for the bones, if you will, of the helicopter and the other for the mission systems. Many companies located in Canada will be able to take advantage of that process. Multinational companies with offices in Canada will be able to take part in building the actual aircraft. Therefore, what we will get as a result of this totally transparent bidding process is a helicopter that will meet the needs of the military and will also meet the needs of the government, which is to get the best value it possibly can.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this chamber the delayed answers to three questions: the question raised by Senator Andreychuk on May 17, 2001, regarding the missile defence system; the question raised by Senator Murray on April 4 and May 8, 2001, regarding the Employment Insurance Act and the Canadian Charter of Rights and Freedoms; and the question raised by Senator Kinsella on May 2, 2001, regarding racism on Internet.

## FOREIGN AFFAIRS

### UNITED STATES—MISSILE DEFENCE SYSTEM— CONSULTATION PROCESS

*(Response to questions raised by Hon. A. Raynell Andreychuk on May 17, 2001)*

The May 15 consultations provided an excellent opportunity to listen to US thinking, to set out Canada's views and concerns, and to ask some direct questions. Canada made clear that we would not wish to see an approach emerge which alienated Russia and/or China, which did not sustain the gains of the non-proliferation, arms control and disarmament regime or which failed to enhance overall security. The meeting was a good beginning of what we expect will be a meaningful and measured dialogue to explore the issues raised by the US on the strategic framework and missile defence. We hope to continue these consultations both bilaterally and within the NATO Alliance. Many issues and details need to be considered. US thinking and plans are still evolving. Canada will take every possible opportunity to continue engaging the US on how best to address current security threats and will continue to assess US plans for missile defence as they emerge.

Canada has and is continuing to make known its views and concerns with regard to US thinking on the strategic framework and missile defence.

Canada will continue to engage in discussions on these important issues with our friends and allies bilaterally and in each appropriate international fora, in particular NATO where we are seeking a meaningful examination of the issues raised by the US ideas.

## HUMAN RESOURCES DEVELOPMENT

### EMPLOYMENT INSURANCE ACT—RULING ON CONTRAVENTION OF CHARTER OF RIGHTS AND FREEDOMS

*(Response to questions raised by Hon. Lowell Murray on April 24 and May 8, 2001)*

The Canada Employment Insurance Commission unanimously agreed that the Government should seek a judicial review of the Umpire's decision.

HRDC's application for judicial review was filed on May 3, 2001.

It is felt that the scope of the ruling goes beyond Mrs. Lesiuk's case and that it therefore needs to be clarified.

Since Justice Salhany did not invalidate the Employment Insurance provisions at issue, the existing qualifying requirements for both regular and maternity Employment Insurance benefits continue to apply.

I will make no further comment on this issue while it is before the court.

However, I would like to point out that Bill C-2 received Royal Assent on May 10, 2001, and included an important change that would extend the Monitoring and Assessment Report until 2006 in order to ensure that the Employment Insurance program is responsive to the needs of Canadian workers.

### HUMAN RIGHTS COMMISSION

#### RACISM ON INTERNET—LIMITATION OF RESOURCES TO RESPOND

*(Response to question raised by Hon. Noël A. Kinsella on May 2, 2001)*

Like his honourable colleagues, the Minister of Industry indeed agrees that illegal content on the Internet, including hate propaganda and child pornography, poses a serious threat to children and other Canadians. There is also the matter of content that, while legal, may be offensive to some people and harmful to children. These issues are of great concern to Canadians. Research recently commissioned by the Government of Canada demonstrates that parents are very worried that their kids are going online with insufficient protection from those who want to exploit them. For this reason, some parents may avoid getting connected to the Internet in the first place.

To address illegal and offensive content on the Internet, the Government of Canada, in partnership with industry and civil society, developed the *Canadian Strategy to Promote Safe, Wise and Responsible Internet Use*. This comprehensive, 5-point plan deals with hate propaganda, child pornography, and other inappropriate content on the Internet.

Our plan is to:

Support initiatives that educate and empower Canadians, helping them to protect themselves and their families while using the Internet.

Promote self-regulation in the Internet industry in order to involve the private sector in effectively addressing these issues.

Empower law enforcement authorities to effectively investigate and prosecute individuals who use the Internet to exploit children.

Implement an Internet "hotline" facility to which child pornography and hate propaganda can be reported.

Foster international collaboration to address the global nature of these problems.

Technological solutions are an important part of the toolkit that empowers Canadians, including software such as that raised by the Honourable Noël A. Kinsella in his question. It is fortunate that many different software filters are commercially available to parents to help them screen out content to which they do not want their children exposed. This includes specialized filters to deal with hate. In the Canadian Strategy, we raise awareness of these and other technological aids and provide direction as to where they or information about them may be obtained.

The strategy also directs Canadians to invaluable educational resources, such as those developed by the Media Awareness Network and the Canadian Association of Internet Providers. These resources highlight the issues and challenges related to online racism, hate, and other inappropriate material and facilitate the implementation of combative measures.

[English]

## ORDERS OF THE DAY

### PATENT ACT

#### BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-17, to amend the Patent Act, and acquainting the Senate that they have passed this bill without amendment.

### IMPERIAL LIFE ASSURANCE COMPANY OF CANADA

#### PRIVATE BILL—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-27, to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec, and acquainting the Senate that they have passed this bill without amendment.



[Translation]

## CERTAS DIRECT INSURANCE COMPANY

PRIVATE BILL—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-28, to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec, and acquainting the Senate that they have passed this bill without amendment.

[English]

## CANADA BUSINESS CORPORATIONS ACT CANADA COOPERATIVES ACT

BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-11, to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts, and acquainting the Senate that they have passed this bill with the following amendments, to which they desire the concurrence of the Senate:

Monday, June 11, 2001

AMENDMENTS made by the House of Commons to Bill S-11, passed by the Senate, intitled: "An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts."

### 1. Title: Replace the long title with the following:

"An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence"

2. Page 136: Clause 235 is deleted.
3. Page 136: Clause 236 is deleted.
4. Page 137: Clause 237 is deleted.
5. Page 137: Clause 238 is deleted.

The Clerk of the House of Commons  
William Corbett

Honourable senators, when shall the amendments be taken into consideration?

On motion of Senator Robichaud, amendments placed on Orders of the Day for consideration at the next sitting of the Senate.

## CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL

THIRD READING—POINT OF ORDER

On the Order:

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Milne, for the third reading of Bill C-4, to establish a foundation to fund sustainable development technology.

### Hon. John Lynch-Staunton (Leader of the Opposition):

Honourable senators, I rise to raise a point of order in relation to Bill C-4, to establish a foundation to fund sustainable development technology. In doing so, I wish to discuss two issues. The first deals with the funding of the foundation, which I will argue is not only in contravention of parliamentary practice but is also illegal, as it is contrary to section 2 of the Financial Administration Act. As well, having established a not-for-profit company to receive this questionable funding prior to passage of this legislation, its authority is clearly in breach of the rule against anticipation.

• (1620)

Before getting into details of these arguments, allow me to refer at some length to the curious facts which surround the government's attempt to fund this foundation. I will quote the observations from the Standing Senate Committee on Energy, Environment and Natural Resources in its fifth report when it reported the bill:

The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of \$100 million of taxpayers' money with that corporation without the prior approval of Parliament, is an affront to members of both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process.

These observations emanate from discussions that were held at two committee meetings, one on May 15, with the Minister of Natural Resources, and the other on May 24, with the acting Auditor General of Canada.

Mr. Goodale explained to the committee that Bill C-4's predecessor, Bill C-46, which, if passed would have established the foundation in the last Parliament, was to be granted \$100 million set aside in the 2000-2001 budget presented in February 2000. With the call of the election in the fall of 2000, this bill died on the Order Paper. It was reintroduced as Bill C-4 at the beginning of this Parliament.



To protect the \$100-million allotment, a non-profit corporation was established, and, according to the minister, the money was paid out to it so that the funding would not lapse with the end of the fiscal year on March 31, 2001.

The minister claimed that what was done was completely legal; however, this assertion surprised the committee. It has certainly surprised me, and in her appearance, the acting Auditor General before the committee was clear that this assertion surprised her as well. Let me quote what Ms Fraser stated at the outset of the committee meeting:

I will begin with the accounting issue. I am concerned about the transfer of large amounts of public money to foundations long before it will be spent on delivering services. In addition, I am also concerned that the government records these transfers as expenditures in the public accounts, even though the money may still be in the bank accounts of the foundation.

We have not yet audited the transfer to the Canada Foundation for Sustainable Development Technology. When we do, we will assess whether there is appropriate authority in place for this transfer at the time it was made and whether the accounting was appropriately completed.

Later in the meeting, an exchange took place between Senator Kelleher and the acting Auditor General, and while it is extensive, it is pertinent to the point of order I am raising.

Senator Kelleher speaks to the acting Auditor General:

The second part pertains to your paragraph 2 and 3 of your statement. As I recall, this was a case where the foundation had not even been created, and we plucked off the shelf some corporation that had been incorporated. In the legal business, it is known as a "shelf company." The problem with this act is even worse. It was not a case of just transferring the money to the new corporation. No corporation even existed. I am very concerned about the legality and propriety of this kind of situation. I would like you to comment on that, if you can.

Senator Kelleher continues:

The other thing that troubles me is when the committee questioned why the money was being transferred now, the answer was the money is available now. If it is not taken now, it will be lost.

Senator Kelleher continues:

I have had experience running a few ministries a few years ago, and there is always that kind of risk. However, I am

having trouble accepting that reason or excuse for transferring money holus-bolus, saying if we do not grab it now, we are going to lose it. It will go back into the general accounts, and we will have to start all over again. My question is this: How accurate is that explanation?

Ms Fraser replies:

We too are concerned about the issue of the authority under which these payments were made. I would like to point out some dates. Unfortunately, we have not completed all our audit work, and that will be done as part of public accounts work. The funding agreement was signed in March, and in April the actual payments were made. The payments were actually made after the year end. That raises an issue for us because the payments were actually made after the year end. I do not want to presume what our audit findings will be, but there are some issues about dates and we do want to assure that the authorities under which those payments were made were appropriate.

Senator Kelleher asks:

Can you express an opinion on the way it was done in this case, which was to make the transfer to a shelf company, in trust, for a foundation that had not yet been created?

Ms Fraser responds:

I can say that I do not like the way that that series of transactions was done. We would have preferred that parliamentary approval be given to this foundation and to the amounts of money that would be sent into it, yes. The money, as I mentioned, is being spent out of government before services can ever be delivered.

Senator Taylor, as chairman of the committee, said:

Not only that, it did not go to a foundation, it went to a shelf company. Some of the rest of us would end up in big trouble if we did that.

That is the end of the quotation from the transcripts of the meeting.

Honourable senators, what has happened here strikes at the very core of parliamentary government under the Westminster style. We must ask ourselves the question: How can Parliament enact a statute that permits the folding into it of a company granted public funds transferred without parliamentary approval? Are we not sanctioning, should we pass this bill, an act of government that runs completely contrary to modern parliamentary democracy, in particular, the power of the House of Commons over the purse?

On a matter as important as this, honourable senators, it is appropriate to refer to the text on British parliamentary practice. Erskine May, twenty-second edition. Page 732 states:

In more modern times, the Government presents to the House of Commons its detailed requirements for the financing of the public services; it is for the Commons, acting on the sole initiative of Ministers of the Crown, first to authorize the relevant expenditure...and, second, to provide through taxes and other sources of revenue the 'Ways and Means' deemed necessary to meet the Supply so granted.

The House of Commons controls the public purse. Erskine May on page 735 describes the three important precepts of financial practice that are to be applied in the appropriation of expenditures:

- (1) A sum appropriated to a particular service cannot be spent on another service.
- (2) The sum appropriated is a maximum sum.
- (3) It is available only to defray costs which have arisen during the year in respect of which it has been appropriated by the relevant Act.

In our case, all three precepts were violated, as the money was not transferred to the foundation to be established by Parliament. The sum paid so far, according to the acting Auditor General, is \$50 million short of the maximum sum, and we have no idea from where the rest of the money will come. It was not allocated in the fiscal year for which it was appropriated.

Turning to Canadian authorities on this point, Beauchesne's sixth edition, paragraph 941, states:

If a Vote in the Estimates relates to a bill not yet passed by Parliament, then the authorizing bill must become law before the authorization of the relevant Vote in the Estimates by an Appropriation Act.

Paragraph 942 states:

Asking for money in the Estimates before legislation is passed to establish programmes "puts the cart before the horse."

Both paragraphs clearly establish that the underlying statute must be in place before the money can be dealt with.

Let me quote from Sir John Bourinot in *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition, 1916. He wrote:

It is not allowable to attach a condition or an expression of opinion to a Vote or to change the destination of a grant.

Here, the destination of the monies was changed from a foundation to be established under statute to a private company established at the whim of a government so that the government could park the foundation's seed money until the foundation was properly established by statute.

The fiscal year of the Government of Canada runs from April 1 to March 31, and that is established by virtue of the Financial Administration Act. According to officials of the Auditor General's Office, \$50 million was transferred in April 2001 after the March 31 deadline, although the minister told the committee that the entire \$100 million had been moved out. However, that is irrelevant as far as the amounts go. The point is this: What happened?

• (1630)

The so-called transfer after the end of the fiscal year illustrates not only the government's contempt for the parliamentary process but for the Financial Administration Act as well.

If the government wanted to act within the law and allow parliamentary procedures, it could have, as suggested on page 741 of Marleau and Montpetit's *House of Commons Procedure and Practice*, simply introduced and have passed through Parliament a separate statute granting the authority to carry over this unexpended money into the new fiscal year.

My second argument deals with the establishment of a non-profit corporation. This anticipated the passage of Bill C-4 for its authority, which clearly violated the rule against anticipation. The problem that would result from this method proceeding would occur if Bill C-4 were not to pass. What would the holding corporation then do with the money transferred to it? Who would get the interest? What would be the accountability? The ramifications are endless.

Let me summarize, honourable senators. A non-profit corporation called Foundation for Sustainable Development Technology for Canada was incorporated on March 8, 2001. In April, the government transferred at least \$50 million to it, monies from the previous fiscal year. Clause 35 of the bill before us would allow the Governor in Council to designate that private company as responsible for carrying out the functions described in the bill.

The government went against all precedents, all procedures, statutes and guidelines by transferring public funds from a previous fiscal year into a private corporation without first seeking the authority of Parliament. Now the government expects Parliament to correct its previous errors by including in the bill a private company not entitled to the funds it has on hand because, first, they had lapsed. Second, since Parliament did not authorize such a transfer, the government has even less authority to do so.



I am not asking His Honour to rule on the illegal administrative decisions taken by the government but to recognize that, as they are illegal, the Senate of Canada, no matter the decision in the other place, has only one choice: to return this bill to its sponsor in order that the government first have the proper funding in place through proper budgetary procedures; introduce a bill in response to that funding; and then designate, as allowed in the bill, whatever entity Parliament has agreed is best equipped to carry out the mandate as specified in the bill.

In our case, honourable senators, this has all been done in reverse and completely outside of the established procedures as described in the appropriate statutes. The money was about to lapse. The government had four people incorporate a not-for-profit organization and monies were transferred to it. Now we are asked to sanction that questionable decision, not to say illegal decision, and to become a party to the illegality by making it legal. To allow Bill C-4 to proceed is to sanction an illegality that only the government can correct. Certainly, it is not for the Senate to remove, now that it has been made aware of the sordid course of events just described.

For all these reasons, I ask that His Honour rule that the Senate cannot continue debate on Bill C-4.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, it is a firmly established precedent that a point of order must be raised as soon as practically possible. His Honour should decline to hear this point of order on a matter that occurred on a previous day or if intervening proceedings have occurred between the breach and the complaint.

The appropriate time to raise this point of order would have been when the bill was moved at second reading, namely, April 26. That was more than six weeks ago. No point of order was raised at that time, and the Senate proceeded to approve the principle of this bill by adopting the motion for second reading on May 2.

Even if the alleged breach of the *Rules of the Senate* were only detected during committee deliberations, the appropriate time to raise the point of order would have been Thursday last when the motion for third reading was proposed. The honourable senator has brought to our attention that this matter was studied in committee on May 15 and May 24, so there would have been ample time to have taken note of this supposed breach and to have brought it to our attention before we moved into third reading. No point of order was raised at that time.

I contend, honourable senators, that the Senate cannot now be detained by this point of order because it was not raised at the

earliest opportunity. Beauchesne's sixth edition, paragraph 319, page 97, states:

Any Member is entitled, even bound, to bring to the Speaker's immediate notice any instance of a breach of order. The Member may interrupt and lay the point of order in question concisely before the Speaker. This should be done as soon as an irregularity is perceived in the proceedings which are engaging the attention of the House. The Speaker's attention must be directed to a breach of order at the proper moment, namely the moment it occurred.

As to the supposed affront to Parliament, the funds in question were approved in the Estimates process by both Houses of Parliament and appropriated in a supply bill that was adopted by both Houses.

**Senator Lynch-Staunton:** When?

**Senator Robichaud:** The appropriation was not made conditional on the passage of legislation to establish the foundation. The government determined that the best means of furthering the objectives for which Parliament appropriated funds would be to transfer funds to a not-for-profit corporation established under Part II of the Canada Corporations Act, 1970. The government is confident that it had the legal authority to take that initiative pursuant to the authority granted in the Appropriations Act. The government is of the view that a foundation created by a specific act of Parliament is the best vehicle for program delivery in this case, and we are pursuing that objective by submitting Bill C-4 for Parliament's approval.

It is erroneous to suggest, however, that Bill C-4 in any way seeks to legitimize an inappropriate act by the government. Such a suggestion would be false because the government had all the statutory authority necessary to take the actions it did. The discussions surrounding the disbursement of funds pursuant to an appropriations act may be an interesting point of debate, but it is not a point of order relevant to Bill C-4. Proof of this statement is revealed by asking the question: Which rule of the Senate has been broken by the motion for third reading of Bill C-4?

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, let me begin by responding to the very last point made by my honourable colleague. The very first rule and the very first page of the *Rules of the Senate* of Canada responds to that question. It states:

In all cases not provided for in these rules, the customs, usages, forms and proceedings of either House of the Parliament of Canada shall, *mutatis mutandis*, be followed in the Senate or in any committee thereof.



Honourable senators, the history of this bill, as I have understood it, effectively began at second reading when the principle of the bill was being debated. In principle, I agreed; I thought it was a great idea to set up this foundation. The bill then was adopted at second reading in principle and sent to one of our standing committees. We then received a report from the committee, and I confess that I did not read the report until the day that we were debating it. The footnote or the observation — however we describe the note that was attached — from the Energy Committee helped us to understand what that meant. We had quite an exchange here Thursday afternoon, and many of us left not very satisfied with the answers to the questions that we had raised.

Honourable senators, I spent the weekend trying to understand this file. It was during that exercise that I came to the conclusion that this is pretty serious stuff. I also came to the conclusion that we have a wonderful system. In the other place, the bill received first reading, second reading, went off to a committee where it was studied, came back for third reading at report stage and was adopted. A message was sent to this place. Here, it received first reading and second reading, and it is in our committee that the amber light began to flash. It is only at third reading that the amber light is beginning to show some shades of crimson. What a wonderful system we have. At any one of these stages, in the public interest, we have the opportunity to catch something that is not quite right.

This is a point of order, honourable senators, precisely because of the practices in Parliament, inclusive of this house. I refer to paragraph 565 of Beauchesne's:

The Senate may take exception if a message from the Crown for pecuniary aid is sent exclusively to the Commons. The legal right of the Senate, as a co-ordinate branch of the Legislature, to withhold their assent from any bill whatever, to which their concurrence is desired, is unquestionable.

Honourable senators, it is unquestionable that we in this chamber, at this late stage, one might say, have identified that there is a problem here.

To assist His Honour, I would encourage him to look at Chapter 13 of Beauchesne's entitled "Business of Supply and Ways and Means," part of which was referenced by the Honourable Senator Lynch-Staunton. In particular, he could look at the Estimates and the purpose of the Estimates.

Speaking directly to this point of order, the vote was made and the authorization was given by Parliament for a discrete activity, but a minister came up with the idea that money was "lapsing." We hear this throughout the bureaucracy. Treasury Board has a series of policies on how managers are not to be relying on this doctrine of lapsed funds. The minister created this corporation. None of us has any questions about the integrity of the individuals who formed the corporation. However, there was no

money voted for the discrete activities of that corporation. There were no monies voted in the Estimates for this future foundation, but \$100 million was assigned to this corporation.

Consider the implications. Parliament has no oversight of this disbursement. Where is the interest on the \$100 million that would be earned over the period of time this money has been allocated to this private corporation? What happens if we do not pass this legislation? There is nothing in the bill that requires the corporation to give this money back to the Crown. Something radically wrong has occurred. It is inextricably interwoven with the bill before us.

The point of order is, in my opinion, sustainable when one examines the purpose, the processes, the customs and the traditions in dealing with Estimates. Effectively, we have monies that should have been properly provided for through the ordinary Estimates process. That did not occur, and the bill is an attempt to short-circuit the privileges of this place, and the point of order should be sustained.

**Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, in my view, we do not have a point of order here. We have disagreement on a policy initiative that has been taken by the Government of Canada. That is a legitimate debate which can take place on any piece of legislation in any of its stages at any time in this chamber or, indeed, in committee. However, there is no point of order. There is no point of order because there is nothing in this particular bill, having been presented to us at third reading, that in any way flies in the face of the *Rules of the Senate*. That includes the provision Senator Kinsella has just alluded to, which says that in all cases not provided for, these rules and customs shall, *mutatis mutandi*, be followed in the Senate or any committee thereof.

The rules were followed. They were followed in the chamber. They were followed in committee. They are now being followed in this particular chamber at third reading of this bill. The government received approval for this money in the same manner money is always approved, through the Estimates process or the appropriations process. That had been done. We voted for it. Indeed, if I recall, we have never in this chamber not voted unanimously for an appropriations bill. Since this matter was included, then that appropriation was adequately covered.

I would argue very strenuously with honourable senators that, yes, indeed, there may be a policy disagreement. Some of you may not like what the government did in this case, and the Senate committee has clearly said to the government, "We do not like the way that this particular bill was put into force and effect, or attempted to be put into force and effect. We would prefer you not use this process in the future."

However, clearly they were unanimous in that the bill came out of committee with observations but without amendment. There was support for the principles of the bill, there was support for the bill itself, there was support for the clauses of the bill, and there was a policy disagreement.

**Hon. Nicholas W. Taylor:** Honourable senators, to encapsulate this discussion, I would be remiss if I did not talk as the lightning rod at the centre, the chairman of the committee and the one who originally pointed out the irregularity or the question of whether or not the budget had been approved.

I have gone through the matter in a fair bit of detail, and I can see the argument raised by honourable senators opposite. I went through the same soul-searching when this bill first came to the committee. The conclusion I reached, and I have heard no real reason to change it since then, is that it is irregular but not illegal. That being the case, I thought it best, and the committee all went along with it, that we slap the hands of the minister. I must confess that it took some reflection on our part, because I found it hard to concede that the House of Commons would go through all these readings without somebody catching this anomaly. I went back through the minutes and nobody caught it.

The point to remember is that we asked the Assistant Auditor General about the matter. We went after her to find out whether or not it was legal. The most she said was that it was irregular. She never said it was illegal.

It was also the committee's impression that the money for this corporation was in the budget. Whether it was discussed or not, it was certainly in the budget and voted for. I think it is irregular. To use the answer the minister gave us on more than one occasion, "We might not get it down the road, so I took it while the going was good." That was the implication we really did not buy. They think that is a good reason, hence the wrist-slapping note about it being an affront to Parliament.

• (1650)

Honourable senators, it is not unusual for a foundation to get money that they will not spend for some time. While we questioned the irregularity of disbursing budget money before the foundation got underway, we could not find any evidence that the foundation had started spending the money before the bill had gone through the House.

The Honourable Senator Lynch-Staunton quoted Erskine May, and you will remember that one of the things was that "if" appropriation is made, it cannot be spent until a bill has been passed. I believe the bill had passed, thereby legalizing that process. There, again, one could argue that Erskine May set out the possibility that at times money would be appropriated but it could not be spent until the bill has been passed and gone through both Houses. In the end, the committee determined that the process was legal, although we were unhappy with its irregularity. Therefore, I do not believe there is a point of order.

**Senator Lynch-Staunton:** Honourable senators, Senator Robichaud raised a question regarding the timing of the raising of the point of order. It could only have been raised at this stage because last Wednesday, Senator Taylor presented the report and

at that time no debate was allowed. It is only from the comments and the observations of the report that the point of order is being raised. On Thursday, questions were asked of Senator Sibbeston, as the sponsor of the bill, and he was unable to give us all the information we wanted. As a result, we did our own research, and today is the earliest opportunity we have had to raise this point of order.

I should like to point out again what we are being asked to sanction here. The government took monies out of a previous year's budget, carried them over to the following fiscal year and deposited them into a made-for-order, non-profit corporation, without parliamentary approval, in anticipation of a bill being passed. That is not the way Parliament should be treated. If we pass this bill in its present form, it will indicate acceptance of this domination by the executive. I will read to honourable senators clause 35(1):

The Governor in Council may, by order, designate, for the purposes of this Act, any corporation incorporated under Part II of the *Canada Corporations Act*, being chapter C-32, of the Revised Statutes of Canada, 1970.

They did not even have the decency to admit and put in this bill that on March 8, 2001, they had incorporated under Part II of the *Canada Corporations Act*, chapter C-32, et cetera, a foundation, et cetera. They did not have the decency to admit that this had been done.

I agree that what the government did is not His Honour's main preoccupation, but is it proper for the Senate to sanction this improper behaviour by the government? I say that by passing this bill, in particular clauses 35, 36 and 37, we become part and parcel of an irregular, if not to say illegal, procedure. Honourable senators should not continue the debate on this bill until the government has corrected the disorder that it has created and that has been raised here.

**The Hon. the Speaker:** If no other honourable senator wishes to participate in the comments to the Chair on the point raised by Senator Lynch-Staunton, then I have heard enough, and I will take this matter under consideration.

In that this item is at third reading stage and part of the issue is whether or not debate should continue, I rule that we proceed to the next order. In the meantime, I will take the matter under consideration and I will report back with my decision as expeditiously as I can.

## SALES TAX AND EXCISE TAX AMENDMENTS BILL, 2001

THIRD READING—DEBATE ADJOURNED

**Hon. Bill Rompkey** moved the third reading of Bill C-13, to amend the Excise Tax Act.



He said: Honourable senators, the measures contained in Bill C-13 propose to refine, streamline and clarify the application of our tax system, and they reflect the government's commitment to ensuring that our tax system is fair. The main intent of Bill C-13 is to implement measures relating to the GST and the HST that were proposed in Budget 2000, as well as additional sales tax measures proposed in a notice of ways and means motion tabled in Parliament in October 2000. Measures are aimed at improving the operation of GST/HST in the affected areas and ensuring that the legislation accords with the policy intent.

Honourable senators, there are two amendments to the Excise Tax Act. The GST/HST measures include a number of measures designed to ensure competitiveness of Canadian business and products in export markets; important sales tax initiatives for the rental housing sector of significant benefit to builders and purchasers of new residential rental accommodation; three measures designed to improve the operation of the GST/HST in the area of real property; provisions regarding health and education that build on the government's commitment to provide access to quality health care and education; and recognition of the important role played by charities by amending the GST/HST legislation to ensure it properly reflects the government's intended policy of generally exempting from sales tax the registry of real property and related goods by charities.

Excise tax amendments are the clarifying amendments to ensure that there can be no misinterpretation of provisions relating to the excise taxes on air conditioners and heavy automobiles. The second amendment provides discretion for the Minister of National Revenue to waive or cancel interest or a penalty calculated in the same manner as interest under the excise tax system. This will make it consistent with the manner in which this discretionary power has been exercised under the Income Tax Act and sales tax systems.

Honourable senators, that is the main thrust of the bill. I commend it to you and ask for your support.

On motion of Senator Kinsella, for Senator Doody, debate adjourned.

## TOBACCO TAX AMENDMENTS BILL, 2001

### THIRD READING—DEBATE ADJOURNED

**Hon. Sharon Carstairs (Leader of the Government)** moved the third reading of Bill C-26, to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco.

She said: Honourable senators, I welcome the opportunity to present Bill C-26 for third reading today.

As honourable senators know, this bill stems directly from the announcements made by the Minister of Finance, the Minister of

Health and the Solicitor General on April 5, on the comprehensive new tobacco strategy aimed at improving the health of Canadians by reducing tobacco consumption. The new strategy includes increased spending on tobacco control programs, as well as tobacco tax increases to discourage smoking. Under this strategy, tax increases are linked to a new tobacco tax structure designed to reduce the incentive to smuggle.

• (17:00)

Bill C-26 implements the tax measures of this strategy and deserves speedy passage for several reasons. First, the new tobacco tax structure will help to reduce the incentive to smuggle exported Canadian tobacco products back into Canada. Second, the tax increases in the bill, the fifth since 1994, will help advance the government's national health objectives by discouraging tobacco consumption. Third, the new tax measures will increase federal revenues from tobacco products by \$215 million per year. Fourth, the new tobacco tax structure will enable the government to increase tobacco taxes even further in the future.

Let me brief honourable senators on the main measures in Bill C-26, beginning with the new tobacco structure, which builds on the 1994 national action plan to combat smuggling. Honourable senators will recall that this plan has proven to be effective in reducing the level of contraband activity and in restoring the legitimate market for tobacco sales.

The key element of the new tax structure replaces the current tax on tobacco products and exports of those products implemented under the 1994 action plan with a new two-tiered excise tax on exports of Canadian-manufactured product, effective April 6, 2001.

A tax of \$10 per carton will be levied on exports of Canadian cigarettes up to 1.5 per cent of a manufacturer's annual production. A refund of tax will be provided upon proof of payment of foreign taxes, a measure that will help to avoid double taxation. Exports over the threshold will be subject to the current excise duty on tobacco products, and a new excise tax. There will be no refund of this second-tier export tax.

Honourable senators, the government believes that taxing all exports of Canadian tobacco brands will reduce the incentive to smuggle export products back into Canada. The government believes that all Canadian brands of tobacco products should be taxed regardless of where they are sold.

As a result, elements of the new tax structure also affect people who travel. Canadians tobacco product delivered to duty free shops and ships' stores, at home and abroad, will now be taxed. Further, returning residents will no longer be able to bring back tax- and duty-free product under the traveller's allowance. Effective October 1, 2001, a new duty of \$10 per carton of cigarettes will be imposed on these products when they are imported by returning residents.



The new duty will not apply to tobacco product with a Canadian stamp, signifying that the taxes have already been paid.

Honourable senators, these measures will help to meet the government's goal of reducing tobacco use. Allowing Canadians who travel continued access to low-cost, tax-free tobacco would be inconsistent with the government strategy of raising tobacco taxes domestically and therefore would make it difficult for us to achieve our health objective of reducing smoking.

Tobacco tax increases are another component of the new tobacco strategy. Through this bill, the federal government is raising tobacco tax rates jointly with the five provinces that matched its tobacco tax reductions in 1994, when the national action plan was implemented.

As of April 6, 2001, the total of federal and provincial taxes increased by \$4 per carton sold in Ontario, Quebec, Nova Scotia, New Brunswick and Prince Edward Island. These increases will restore federal excise tax rates to a uniform level of \$5.35 per carton on cigarettes sold in Nova Scotia, New Brunswick and P.E.I. This amount is equal to the current federal excise tax rate in the provinces that did not reduce tobacco taxes jointly with the federal government in 1994, because they did not have the same smuggling problems.

As I indicated earlier, honourable senators, this is the fifth increase in tobacco taxes since 1994. I also indicated that this measure will raise an additional \$215 million in federal revenues each year from tobacco products.

Another measure in Bill C-26 increases the surtax on the profits of tobacco manufacturers to 50 per cent, from 40 per cent, effective April 6, 2001. This surtax currently raises about \$70 million annually; the increase will bring in an extra \$15 million each year.

Honourable senators, the government's new tobacco strategy represents the most extensive tobacco control program in Canadian history. It demonstrates the depth of the government's commitment to reducing tobacco use. Bill C-26 implements fundamental changes in our tobacco tax system under this strategy. The new tobacco tax structure will reduce the incentive to smuggle exported Canadian tobacco products back into Canada. It has also enabled the government to increase tobacco taxes now to help advance its health objectives. In addition, this new structure lays the foundation for further action in the future.

Honourable senators, I was delighted with the recent statistics that show a decrease in smoking, particularly among teenagers. I have every hope and anticipation that these further measures will help to decrease even further the smoking of young people.

[Translation]

**Hon. Yves Morin:** Honourable senators, it is with enthusiasm that I support Bill C-26 on tobacco taxes.

As Minister Rock said recently:

This initiative is clear proof of the government's commitment to reducing tobacco consumption and ensuring the promotion of health.

By increasing the cost of cigarettes and limiting the possibilities for smuggling, Bill C-26 will significantly reduce tobacco consumption, particularly among young Canadians.

[English]

As the Honourable Senator Carstairs has just stated, these taxes will raise some \$215 million per year in additional revenue.

As we all know, tobacco use is the single most preventable cause of death in Canada. Most people begin using tobacco in early adolescence. Annually, tobacco causes more than 40,000 deaths in the nation and costs approximately \$5 billion in medical expenses. That is why we feel that the additional revenue raised by these new taxes should be allocated to the eradication of tobacco addiction in our nation. In that respect, we applaud Health Canada's tobacco control strategy based on mass media campaigns and control activities.

However, education in this field is not the definitive answer. The projected results of these education programs are marginal, a mere 5 per cent differential in the number of smokers after five years. There are several reasons for this relatively low success rate. The main reason is that nicotine is highly addictive. The recently released tobacco industry internal documents state that nicotine is the most addictive drug, more addictive than heroin, cocaine or amphetamines.

Addiction to nicotine is variable from subject to subject, according to the person's genetic makeup. For certain individuals, it is absolutely impossible to quit smoking. No education program is effective in these cases. For a biomedical problem, there must be a biomedical solution.

There are other important questions. Why do certain teenagers start smoking and not others? In certain Aboriginal communities, the incidence of smokers in the adult population is over 70 per cent, among the highest in the world.

Is this a biomedical disposition, cultural or even spiritual, as Dr. Jeff Reading of CIHR has indicated? The answer to these essential questions lies in scientific research. The result of this research will profit not only Canadians, but also the citizens of developing countries where tobacco addiction is becoming a major problem.

[Translation]

Certain doctors, such as Dr. Fernand Turcotte of Laval University, the directing force behind the Unité québécoise de recherche sur le tabagisme, whose tenacity and motivation I commend in this chamber, have long recommended that research be applied to the problems of smoking in our populations.

[English]

At the national level, the Institute of Neuroscience, Mental Health and Addiction of the Canadian Institute of Health Research, CIHR, is designing a national research strategy on tobacco abuse in Canada.

This strategy is truly innovative and focuses on nicotine use and dependence. We are most fortunate that the capacity already exists in Canada to study the mechanisms of nicotine dependence, from basic research to clinical and epidemiological research. Neuroscience in Canada is extremely strong and has a long tradition, dating from pioneers like Dr. Wilder Penfield, at McGill. It is time to harness our unique potential by properly financing a national research strategy on tobacco abuse in Canada.

• (1710)

An initiative of this type requires a yearly commitment of \$5 million for the next seven years. Honourable senators, we all know that tobacco use is one of the most serious problems affecting the health of Canadians today. We also know that the definitive answer to this problem lies in scientific research. The investigators of our Canadian universities and hospitals are ready to work. A strategic plan is being prepared. The researchers need only the resources, a mere 2 per cent of the additional revenue raised by these new taxes.

**Hon. David Tkachuk:** I should like to ask a question of the Honourable Senator Morin.

**The Hon. the Speaker:** Senator Morin, will you accept a question?

**Senator Morin:** Yes, it would be my pleasure.

**Senator Tkachuk:** Honourable senators, Senator Morin mentioned spiritual reasons for the use of tobacco products. Could the honourable senator explain that?

**Senator Morin:** Honourable senators, for those of us who were present at the meeting of the Standing Senate Committee on Social Affairs, Science and Technology, there was a presentation by several leaders interested in Aboriginal health. The presentation was provided by Dr. Jeff Reading, Scientific Director of the Institute of Aboriginal Health of the Canadian Institutes of Health Research. Dr. Reading told the committee that in several First Nations communities throughout our country 70 per cent of adults use tobacco. That is probably the highest rate in the world.

We asked Dr. Reading why the figure is so high, and he said that there could be a genetic predisposition, or a cultural influence or a spiritual component to the addiction to tobacco. Dr. Reading is of Mohawk descent and believes that tobacco has

a spiritual connotation for some of the First Nations people. That was the basis for my statement.

**Senator Tkachuk:** Does the Government of Canada have programs on Indian reserves, which of course pay no tax at all, to combat smoking?

**Senator Morin:** Honourable senators, I am unable to answer that question. I will make the appropriate inquiries to obtain that information for the honourable senator.

On motion of Senator Kinsella, for Senator Nolin, debate adjourned.

## INCOME TAX AMENDMENTS BILL, 2000

### THIRD READING—DEBATE ADJOURNED

**Hon. Tommy Banks** moved the third reading of Bill C-22, to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act.

He said: Honourable senators, once again I will abridge the long version of the speech that was prepared for me in respect of this bill.

I am absolutely certain that all of you paid the closest attention when I enumerated at second reading the good things about Bill C-22. This bill is the biggest step forward in the government's tax-cutting effort to date and, in fact, as you have all heard, is the biggest tax cut to occur in Canada's history.

Honourable senators, Bill C-22 is based on the following four key principles: First, our approach to tax reduction must be fair and must begin with those who need it most; this bill does that. Second, we must focus on personal income taxes; this bill does that. Third, Canada must have an internationally competitive business tax system; this bill does that. Fourth, we will not finance tax relief with borrowed money; this bill does not do that.

For the government, fiscal responsibility is fundamental and tax cuts are absolutely essential. At the same time, an effective, fair, and technically valid tax system must be maintained. That is the thrust of the bill before us, honourable senators.

In considering Bill C-22, I urge honourable senators to keep three things in mind: First, this bill is the largest tax cut in Canada's history and in the present government's efforts to date; second, the bill contributes to making our tax system fairer for everyone in Canada; and third, Canadian children and families are waiting to benefit from the Canadian child tax benefit increases on July 1, 2001. These increases are dependent upon the passage of this bill.



Honourable senators, I commend your attention to Bill C-22.

On motion of Senator Tkachuk, debate adjourned.

[Translation]

## BUDGET IMPLEMENTATION ACT, 1997 FINANCIAL ADMINISTRATION ACT

### BILL TO AMEND—THIRD READING

**Hon. Yves Morin** moved third reading of Bill C-17, to amend the Budget Implementation Act, 1997 and the Financial Administration Act.

He said: Honourable senators, I have the honour to present to you here today Bill C-17 in third reading. This is a bill which amends two pieces of legislation, first of all, the Budget Implementation Act, 1997, including the provision of additional funding to the Canada Foundation for Innovation, and second those provisions in the Financial Administration Act which concern the Canada Pension Investment Board and Parliament's power over borrowing contracted on behalf of the State.

I will begin by discussing the increased funding to the Canadian foundation for innovation. These measures are in addition to the series of funding initiatives already put in place by the federal government for university-based research over the past four years.

The 1997 budget indicated that many Canadian university and hospital research facilities were not up to world-class standards and that new investment was necessary.

[English]

The Canadian Foundation for Innovation was established in that budget to provide financial support for organizing research infrastructure in universities, research hospitals and not-for-profit research institutions in the areas of health, environment, science and engineering. The measures in the bill before us today confirm that the foundation continues to remain high on the government list of funding priorities for university research.

Honourable senators, before I discuss these measures, allow me to briefly review the funding to date that the federal government has directed to the foundation. The 1997 budget provided an initial upfront investment of \$800 million. The 1999 budget followed with an additional \$200 million. The 2000 budget built upon investments already made in the foundation with a further \$900 million and extended support for the foundation to 2005.

The October 2000 economic statement and budget update provided yet another investment of \$500 million. On March 6, 2001, the Minister of Finance and the Minister of Industry announced a further \$750 million for the foundation.

Bill C-17 proposes these two increases, \$500 million announced in the October 2000 economic statement

and \$750 million announced in March 2001, for a total injection of \$1.25 billion for the foundation. It also extends the foundation's activities to 2010.

• (1720)

The \$500 million announced last October will be invested in two ways. First, \$400 million will allow the foundation to contribute to the operating costs of new awards. The remaining \$100 million will help support the participation of Canadian researchers in leading-edge international research projects and facilities that offer significant research benefits to Canada.

The additional \$750 million announced in March will build on this funding by providing additional stability to universities as they plan for their future research priorities.

Together, this increased funding will bring the total federal investment in the foundation to \$3.15 billion.

Honourable senators, the Canada Foundation for Innovation needs this funding to help it support the operating costs of new awards and the participation of Canadian researchers in international research projects.

[Translation]

Up to now, the success of the Foundation has lain in the willingness of groups such as universities and research hospitals, businesses, the individual volunteer sector and provincial governments to join with it in improving the infrastructure of Canadian research.

Up to now, the Foundation has supported 95 research bodies, including 65 universities, 18 colleges and 12 research hospitals. In the January Speech from the Throne, the government made a commitment to at least double its current investment in research until 2010.

The additional funding given the Foundation through this bill will enable the government to achieve this objective.

[English]

Bill C-17 also contains two key amendments that improve the operation of the Financial Administration Act. The first amendment relates to the Canada Pension Plan Investment Board, which was inadvertently deleted from section 85 of the act when the Canadian Wheat Board was amended in 1998. This error meant that the board was subject to various direction and control provisions under the Financial Administration Act, putting it in conflict with its own mandate. Clearly, this was not intended.

As of December 1998, under Bill C-17, the board will be reinstated as one of the Crown corporations exempted from Divisions I to IV of Part X of the act. This exemption protects the independence of the board while the board legislation provides a strong accountability regime.



[Translation]

Bill C-17 reaffirms as well the fact that Parliament alone may authorize the contracting of debts on behalf of the Crown. Among other things, it establishes clearly that the role of the Minister of Finance is to ensure sound administration of the public debt.

Honourable senators, I have provided an overview of the measures provided in Bill C-17, and I invite you now to vote in favour of it.

The amendments to the Financial Administration Act will improve the application of the Act, while the additional funding accorded the Canadian Foundation for Innovation will help it continue to promote research in Canada and to inspire young Canadian researchers.

[English]

Investing in education, research and innovation is the most significant investment Canadians can make to foster future success. Clearly, honourable senators, the government is on the right track, as these measures demonstrate.

**Hon. Roch Bolduc:** Honourable senators, the recently appointed Auditor General says she is troubled by the Liberal government's growing tendency to disburse taxpayers' money through foundations beyond the reach of Parliament. You will recall, honourable senators, that I stressed the same idea several weeks ago in my speech at second reading of Bill C-17.

More than a decade ago, an urgent need was felt to increase the effectiveness and efficiency of the government. Our PC government proceeded to privatize some parts of governmental activities, mostly in transportation, and I think that Canadians can generally appreciate that it was a good thing to do.

We also established, on an experimental basis, a few operating agencies as pilot projects, what we called the special service agencies. Those agencies, now numbering around 20, are not private businesses but public organizations operating with more administrative autonomy than the traditional departments. In the beginning, most of these small agencies — a total employment of about 5,000 people — provided services primarily to the government. The new structures were a kind of a compromise between privatization and departmentalization.

More recently, though, with the establishment of the Canada Customs and Revenue Agency, we made an additional major step in institutionalizing this type of new instrument, to serve the public this time, and involving 40,000 employees. We have also above that a parks agency of the same type.

I have doubt about that instrumentation for such a purpose, that is, the collection of tax. Moreover, in 1999, the Auditor General found that the federal government has entered into at least 51 collaborative arrangements with other levels of government or the private or voluntary sectors to deliver services at a cost to the federal taxpayers of about \$4.5 billion per year. The Canada Infrastructure Work Program, \$2.4 billion over six years, and the Labour Market Development Agreement, \$7.7 billion over five years, are examples. He also found 26 federally delegated decision-making arrangements to a partner. The Foundation for Innovation, more than \$3 billion over six years, and the Scholarship Fund, \$2.5 billion over 10 years, are examples of these arrangements.

We can only hope that the essential values of the public service system will prevail in these new administrative arrangements — that is to say, fairness, impartiality, and equity in providing service and enforcing regulations. Let us hope also that the employees and the managers of those new organizations are selected and promoted on the basis of competence demonstrated through a process of clean competition.

However, hope is not enough for Parliament. Neither are good words by the heads of these agencies. We must have performance information reported to the House of Commons and the Senate, guidelines against which to measure progress and whether the arrangements are working.

In private business, the freedom to manage is matched by accountability to the board of directors through a corporate plan that includes objectives, performance expectations and an annual report on actual achievements.

I think that the Minister of Finance and the Treasury Board should make it a rule of conduct for any agency to include in its statutory responsibilities the ones just outlined here concerning its personal and financial management so that Parliament can exercise its oversight duties.

Otherwise, honourable senators, we are gradually eroding our essential responsibility of parliamentary scrutiny of federal non-statutory spending.

I would call to the attention of honourable senators a remarkable document issued by the Auditor General in November 1999 entitled *Régie en partenariat* — in English, *Management in Partnership*. I suppose.

Our parliamentary high civil servant, the Auditor General, has found 77 new management mechanisms in use in the federal administration, as I said before. As long as the civil service is under the authority of a minister, the latter must answer to Parliament for the performance of his employees. When an organization is a Crown agency, the employees do answer to the board who reports to Parliament through a responsible minister.

The new administrative instruments are either of a management-in-partnership type or a delegated-management type. In the first case, strategic decisions and program management are a dual-responsibility system. In the second case, outside and independent people manage the show from a general framework established by the government.

I do not necessarily disagree with the formula if the objectives are clear, the targets are measurable, the accountability system is well established and respected, transparency is there, and the fundamental values of justice, impartiality and fairness are preserved. However, what the Auditor General tells us is that some aspects are lacking presently and the accountability is far from being adequate.

[Translation]

There is, therefore, the possibility of bureaucratic bungling.

[English]

We must stress the paramount necessity of ensuring a workable parliamentary control of this institution, which is not the case presently. If Parliament oversight is not there, then we must revise the Financial Administration Act to put in place a framework that will ensure it. This is of the utmost importance for the future of democracy in this country.

**The Hon. the Speaker** *pro tempore*: Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

• (1730)

## CANADA ELECTIONS ACT ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

**Hon. Wilfred P. Moore** moved the third reading of Bill C-9, to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act.

He said: Honourable senators, I am pleased to speak in support of Bill C-9, to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act. As senators are aware, this act contains some technical amendments to those statutes, but, more important, it changes the rules that govern the participation of third parties in general elections and by-elections.

Essentially, the bill reduces the number candidates a political party is required to nominate in order to have the party name on the ballot under the Canada Elections Act. It also gives rights to smaller parties that go along with having the party name on the ballot, such as the right to have the party name listed on scrutineer badges. Currently, that number is 50 and this bill proposes to reduce it to 12 nominated candidates.

This bill responds to the judgment of the Ontario Court of Appeal in the case of *Canada v. Figueroa*. In that case, the court held that it was unconstitutional to require that 50 candidates be nominated before including a party name on the ballot. It ordered that those sections be struck down six months after the decision. Bill C-9 responds to the concerns of that court.

During the hearings on this issue before the Standing Senate Committee on Legal and Constitutional Affairs, we heard extensive evidence on how many candidates should constitute a party. In his appearance before the committee, the Chief Electoral Officer of Canada, Mr. Jean-Pierre Kingsley, stated that he felt that the changes may not have given enough status to smaller parties. In particular, he suggested that new parties should be allowed to have the party names on the ballot in by-elections. For instance, he thought that the rules should have allowed the current member from Edmonton North, Deborah Grey, to have the Reform Party named on the ballot next to her name as her party of affiliation when she was first elected.

Mr. Kingsley also noted that in 1993 and 1997, the Communist Party of Canada did not field 12 candidates, and, therefore, its candidates did not have the party name listed beside their names. This happened despite the fact that the Communist Party had all the attributes of a political party, including a leader, officers, an address, membership and a platform. He suggested that consideration should be given to lowering the number below 12.

The committee also heard from the leader of the Christian Heritage Party, who gave a practical example of how, in his view, the current threshold provisions on ballot identification can work to generate misinformation among voters. Due to the deregistration of that party, its candidates could not be identified on the ballot during the last general election. Apparently, one member of the party spoiled her ballot because she believed that the party's candidate was no longer running for the Christian Heritage Party since he was not identified on the ballot as being endorsed by that party.

Honourable senators, it would be fair to say that I have great sympathy for those who want to expand the democratic rights of smaller parties. The electoral system is there for individual Canadians, not for the benefit of established parties. Serious consideration must be given to further expanding these very important democratic rights.



However, it is my understanding that more amendments are forthcoming, as Mr. Kingsley will be providing this place with a full report with more suggested amendments in the fall. At that time, this issue could be given further study. In the meantime, however, as the extended deadline for action as set by the Ontario Court of Appeal is imminent, it is imperative that this bill be passed in order that there be no gap in our current legislation. Bill C-9 received unanimous support at committee, and I urge all honourable senators to support it on third reading.

On motion of Senator Kinsella, for Senator Oliver, debate adjourned.

### **ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE ACT PETRO-CANADA PUBLIC PARTICIPATION ACT**

#### **BILL TO AMEND—DECLARATION OF CONFLICT OF INTEREST**

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Ferretti Barth, for the third reading of Bill C-3, to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act.

**Hon. Nicholas W. Taylor:** Honourable senators, earlier today, I was informed by His Honour that I would have to wait until the end of Government Business before I could make a statement on this item.

I wish to say that I will refrain from voting on this matter. I have already informed the clerk that I own chemical shares, so I cannot and will not and should not be voting on Bill C-3.

Order stands.

### **NATIONAL HORSE OF CANADA BILL**

#### **SECOND READING**

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Comeau, for the second reading of Bill S-22, to provide for the recognition of the *Canadien* Horse as the national horse of Canada.—(Honourable Senator Murray, P.C.).

**Hon. Lowell Murray:** Honourable senators, as I indicated on May 15 when I began this speech, there are several reasons why I ask you to pass Bill S-22. First, there is the historic significance of the *Canadien* horse. It is the descendent of the very first horses sent out from France by King Louis XIV in the mid-1600s. There is then symbolic importance in having Parliament declare this animal the national horse of Canada.

Second, we should want to encourage and support those breeders and others whose purpose is to preserve the standards of this breed.

Third, there is a procedural factor. As I told you on May 15, there is a bill identical to Bill S-22 now before the House of Commons sponsored by Mr. Murray Calder, MP, Dufferin-Peel-Wellington-Grey. As senators know, relatively few private members' bills initiated in the House of Commons ever make it through that House. A bill going to the Commons from the Senate gets on to its agenda and has, I believe, a better chance of being debated and passed. Needless to say, Mr. Calder has not sought to discourage my initiative in the Senate.

I also mentioned on May 15 that there had been a movement to declare this horse the official horse of Quebec. I have since discovered that recognition of the *Canadien* horse formed part of a bill that was adopted by the Quebec National Assembly in December 1999.

[Translation]

It is the *Loi sur les races animales du patrimoine agricole du Québec*. This act, which was passed on December 16, 1999, provides that certain races of animals associated with Quebec's historical origins and agricultural traditions are part of Quebec's agricultural heritage and can be designated under the title "race patrimoniale du Québec," or Quebec's heritage race.

The National Assembly gave that title not only to the *Canadien* horse, but also to a cow, the *Canadien* cow, and to a hen known as the "Chantecler hen."

There is of course nothing wrong with this initiative from the Quebec National Assembly. However, there is also nothing to prevent the Parliament of Canada from giving official recognition to the *Canadien* horse. This horse has been well known for a long time, not only in Quebec, but also in Ontario, in the Western provinces and in the Maritimes.

[English]

• (1740)

Indeed, these sturdy horses cleared the wood from farms in Nova Scotia, New Brunswick and Prince Edward Island. They hauled the timber that built the famous wooden ships in the Maritimes. They went with some of the first French colonists to the Red River Valley. United Empire Loyalists, passing through Quebec, bought *Canadien* horses for use on their new farms in Ontario.

The breed has been in danger of extinction several times due to war, interbreeding and the export of horses to the United States. Its survival owes much to a Quebec veterinarian, Dr. J. A. Couture, who campaigned successfully for the adoption of a new standard for the breed, which was done in 1895.



In that same year, the French Canadian Horse Breeders' Association was formed. By 1907, the Minister of Agriculture and the Horse Breeders' Association considerably tightened the standards and the inspection-and-approval process. By 1913, a breeding centre was opened at Cap-Rouge, Quebec.

At a meeting of the House of Commons Committee on Agriculture and Colonization on March 17, 1909, Dr. J. G. Rutherford, Veterinary Director General and Livestock Commissioner, testified as to the standard weight and height as measured in hands:

Stallions must not exceed in height 15.3 and mares 15.2. The weight preferred is for stallions between 1,100 and 1,350 pounds, for mares 1,050 to 1,250 pounds.

Later, when he was asked why the government limited the registration of French Canadian horses to a certain weight, Rutherford replied:

It is to discourage the almost universal tendency on the part of breeders to increase the size of horses. You keep on increasing the size until you get a horse which is altogether different from what you started out to get. Then you lose your uniformity of type and you get away from the original breed entirely.

This is why the Canadian Horse Breeders of Ontario are so determined to preserve the Canadian horse by adhering to the standards established by the Department of Agriculture. There are now some 3,000 Canadian horses in existence in Canada and the United States.

When he appeared before the Commons committee on March 17, 1909, the Honourable Sydney Fisher, who was Minister of Agriculture during the entire 15-year tenure of the Laurier government, said:

I may say in regard to the French Canadian horse that I have, ever since I was a boy, been connected with horses. The first animal I was ever put on in my life was a French Canadian pony which my father had and drove for many years. That pony could go his 12 to 14 miles an hour at any time. My father was a doctor and used to drive from morning until night and many a time I have driven him 12 miles a hour.

Later the minister added:

The horse as a rule is the most kindly, gentle and docile horse I have ever had the opportunity of handling, and he is almost the truest to his work; he never gives out. It does not matter what he is at, if it is on the road he travels along forever, and if he has a load behind him he will tug at it until he moves it. He never balks and children can handle him

with the greatest safety. In every way he is docile and kindly.

The Honourable Mr. Fisher was obviously a hands-on Minister of Agriculture.

Honourable senators, I commend this bill to your support. I very much wish to see the bill approved in principle and sent to the Standing Senate Committee on Agriculture and Forestry. There, we would have the opportunity of hearing from breeders and others who have a particular interest in the bill and in the preservation of this horse and in its designation as the national horse of Canada. We would also have the opportunity to call upon the expertise of the federal Department of Agriculture with regard to the standards and the registration of this horse.

**Hon. Jack Wiebe:** Honourable senators, I to rise to speak briefly in support of this motion. I had some difficulty initially because, of course, horses played a great part in my growing up. I have a great love for horses. I must admit that when I first read the motion before us, my initial reaction was to speak and to vote against it because the Canadian horse is not necessarily my favourite horse. However, my favourite horse is not an animal that was raised or bred or even developed here in Canada. It was developed in the United States and is called a Morgan horse. That horse will do anything that man will ask of it, whether it be winning a Kentucky Derby, pulling a load of logs or gracefully carrying a man and his lady to a dinner party.

After listening to Senator Murray's remarks, I feel that the Canadian horse can do just about the same as what the Morgan horse can do. I am a real nut for history, though, and this horse represents a good part of our country's history. It is also recognized as an animal that played a significant role in the development of this country. On that basis, I am more than happy to support Senator Murray in his proposal today.

**Senator Murray:** If I may speak —

**The Hon. the Speaker *pro tempore*:** If the Honourable Senator Murray speaks now, honourable senators, his speech will close the debate.

**Senator Murray:** Honourable senators, I thank my honourable friend for his support of this bill. I hope he will join me and others, if this bill is sent to the Standing Senate Committee on Agriculture and Forestry, for further discussion with those interested and with the officials from the Department of Agriculture. He is correct to assume that the Canadian horse is not one that one would enter in the Kentucky Derby with any confidence. Nevertheless, I do draw to the attention of honourable senators that the Canadian horse figures in some of the quite beautiful paintings of Krieghoff with which most honourable senators are familiar. For those who may wish to research this matter further over the summer months, there was an interesting debate at the National Assembly of Quebec when they decided to declare the Canadian horse, the Canadian cow and the Chantecler hen as part of the agricultural heritage of Quebec. Those debates took place in December of 1999.

Honourable senators, I will close on a slightly humorous note. When this horse was brought over in 1647, the following comments were made in the debates:

[*Translation*]

The Compagnie des habitants had it brought over to give as a present to the governor, the Chevalier de Montmagny, because the habitants felt, rightly so in my opinion, that a knight without a horse did not make much sense.

[*English*]

Honourable senators, with those few words, I again thank Senator Wiebe for his support. I hope that we can have an interesting time with this bill in the Standing Senate Committee on Agriculture and Forestry and that, ultimately, we will be able to send it to the House of Commons, where it will take somewhat more priority than private members' bills that originate in that place.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Murray, bill referred to the Standing Senate Committee on Agriculture and Forestry.

• (1750)

## BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(*Honourable Senator Cools*).

**Hon. Anne C. Cools:** Honourable senators, I rise to speak briefly to Bill S-9 which, I am sure all honourable senators know is entitled "An Act to remove certain doubts regarding the meaning of marriage."

As most senators know, these are some issues that preoccupy my mind. Following on the series of events that occurred last year here in the chamber, essentially the passage of the

Modernization of Benefits and Obligations Act, it occurred to me that, perhaps, these issues were needing some clarification.

Thus, I thought it was my bounden duty to bring forth a bill specific to marriage itself which would create "an act respecting marriage," and then this act itself would be cited as "the marriage act."

In any event, honourable senators, I must confess that it is my plan to keep you in suspense for another day because time is passing and the hour is coming up to six o'clock. I know our schedule is very crowded.

Having said that, I move the adjournment of the debate, and I shall continue eagerly tomorrow.

On motion of Senator Cools, debate adjourned.

## DEFENCE AND SECURITY

BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES AND TRAVEL—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Senate Committee on Defence and Security (budget 2001-02) presented in the Senate on June 7, 2001.—(*Honourable Senator Kenny*).

**Hon. Colin Kenny** moved the adoption of the report.

Motion agreed to and report adopted.

## INTERNAL, ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Committee on Internal Economy, Budgets and Administration (budget of Aboriginal Peoples Committee—legislation) presented in the Senate on June 7, 2001.—(*Honourable Senator Kroft*).

**Hon. Richard H. Kroft** moved the adoption of the report.

Motion agreed to and report adopted.

[*Translation*]

## SCRUTINY OF REGULATIONS

BUDGET—REPORT "C" OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report — "C" of the Standing Joint Committee for the Scrutiny of Regulations (budget—travel to Sydney, Australia) presented in the Senate on June 7, 2001.—(*Hon. Senator Hervieux-Payette, P.C.*).



**Hon. Céline Hervieux-Payette** moved that the report be adopted.

Motion agreed to and report adopted.

[English]

## DEFERRED MAINTENANCE COSTS IN CANADIAN POST-SECONDARY INSTITUTIONS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary institutions.—(*Honourable Senator Austin, P.C.*).

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise to participate in the debate on this inquiry. The issue of the deteriorated state of infrastructure at post-secondary institutions across Canada is a major issue in our country, a crisis in the magnitude of some \$3.6 billion, of which \$1.2 billion is required urgently.

Honourable senators, the reasons for this grim situation are several, including the significant enrolment increase of the past 20 years, the serious cuts in funding from federal and provincial governments, the need to comply with new building codes and enhancing accessibility by removing physical barriers. Also, honourable senators, it is caused by university management practices.

If we were to provide a title for the remarks that we make in debate here, my remarks would be entitled "Let us not reward the poor university administrators and punish the good university administrators." An objective audit of the physical plant health of our universities demonstrates where the good managers have been and where the poor management practices have also been exercised.

One of the serious weaknesses in university management practices has been the university budgeting process based on short-term plans that failed to provide appropriately for fund allocation for the physical plant of the campus. Whatever will be our response to this crisis of deferred maintenance, it must be done in a manner that rewards the good managers and does not place at a disadvantage those who have husbanded the limited resources, those good university managers who have made sacrifices and carefully administered their limited resources in a manner that provided for the upkeep of their physical plants.

Honourable senators, the ratio of deferred maintenance to the cost of replacing the physical infrastructure in Canadian universities is more than 60 per cent higher in our country than it is in the United States. While governments have moved to

support research through initiatives such as the Canadian Institutes of Health Research, the Canadian Research Chairs and the Canadian Foundation for Innovation, these measures do not address the underlying decay of the foundation on which these programs try to build.

I also must point out that the funds from these programs were not distributed equally across Canada. The Canadian Association of University Business Officers, or CAUBO, has itself, in a report entitled "A Point of No Return: The Urgent Need for Infrastructure Renewal at Canadian Universities," identified a number of the elements that shed light on the failure of poor university managers in creating the current crisis of the deteriorating Canadian university campuses caused by the accumulated deferred maintenance. In the CAUBO study, the elements of good practices to deal with this problem are enumerated and can be summarized as follows.

First, there is the commitment to eliminating the accumulated deferred maintenance in which the most influential factor was leadership and commitment at the highest levels of universities and governments. Further institutional planning and budgeting processes must reinforce this commitment and enlist the support of all stakeholders.

Second, institutional planning is a critical element. One must ask how well the respective boards of governors were demanding detailed institutional planning from their university administrators with regard to maintenance of the physical plant. My hypothesis is that there is a direct correlation between the lack of institutional planning and the level of physical plant deterioration we are faced with today.

Third, the budgeting processes at Canadian universities have not given physical plant maintenance the priority it ought to have received. Based on the CAUBO study, the budget should provide about 2 per cent to 4 per cent of the current replacement value annually for maintenance and should include a preventive maintenance program.

• (1800)

Fourth, long-range facilities planning whereby universities develop and regularly update —

**The Hon. the Speaker:** I rise to advise honourable senators that it is six o'clock. Is it your wish to not see the clock?

**Hon. Colin Kenny:** Honourable senators, I was working on the assumption that the Senate would rise at six o'clock, at which time I have a committee scheduled. I wonder how many other honourable senators wish to speak today. I am looking for some direction. I see "two" coming from the deputy leader.

I move that we do not see the clock.

**The Hon. the Speaker:** Is it agreed, honourable senators, that we not see the clock?

Hearing no objection, I return the floor to Senator Kinsella.



**Senator Kinsella:** Honourable senators, my fourth element of good practice to deal with the problem of the accumulated deferred maintenance is long-range facilities planning, whereby universities develop and regularly update a long-range capital priorities plan. This plan must also include a plan to maintain this capital. For new capital projects, initial funding must also factor in life-cycle cost design to include maintenance over the life cycle of the capital.

Inevitably, funding must be directed to Canadian post-secondary institutions to reverse the current state of physical decay, which, as I mentioned earlier, is of crisis proportions. We must provide a point from which universities and colleges can proceed to renew themselves to meet the future demands that we know will be placed upon them. However, honourable senators, there must be sustainability in whatever funding initiative is chosen. The deterioration of the physical infrastructure must not be allowed to become a cyclical phenomenon that will recur during the next long-term economic decline.

As well, honourable senators, there must be fairness in the funding provided, whatever model is agreed upon. Simply providing funding to universities to resolve this problem will, in effect, reward those institutions that did not take painful decisions during the 1990s. Some universities did make considerable sacrifices in terms of significant staff cuts, reductions in student acceptance and deferred new capital construction. Some deferred necessary equipment purchases. Why? They did that in order to maintain their infrastructures properly. In other words, they put on the roof when it had to be put on, but they made a sacrifice. They cut back on library acquisitions and faculty.

I have no doubt that some of the current crisis must be seen as a lack of long-range coordinate planning, reflecting ad hoc or short-term decisions taken in the hope that things would soon get better or that some future board of governors would have to deal with the problem. What message, honourable senators, would it send to prudent fiscal managers if we were to recommend that governments come in and help those universities that did not make substantial sacrifices? What message do we send when the fiscal responsibility and sound management decisions of the universities that did make painful choices were made without merit?

We cannot let the deferred maintenance problem in post-secondary institutions go unaddressed; however, we cannot blindly give funds without ensuring that this situation will not recur and that there is no benefit to responsible long-term planning on campus. I propose, honourable senators, that matching funds be provided for deferred maintenance, but that in some manner additional funds be included that can be accessed by institutions if and when they have resolved their deferred-maintenance situations.

Evidence of reducing the accumulated deficit maintenance to acceptable levels can easily be verified by a facilities audit as

well as a demonstration that operating budgets include sufficient maintenance and repair-fund allocations to prevent the occurrence of this problem. At that point, these institutions could be eligible to access additional funding, whether for indirect cost support, equipment, library stock, et cetera. This would provide an incentive for institutions to sustain their physical infrastructure and prevent the recurrence of the sad situation that we are in today, as well as reward those institutions that have been able to maintain their facilities through sound practices. Included in this matching fund should be some weighting formula, to ensure that there is sufficient balance in the size, type and location of institutions.

While it is true that Ontario has the largest number of post-secondary institutions and that the size of its deferred maintenance deficit is the largest among all provinces, it is also true that Ontario is the wealthiest province. It has had the financial resources to support its SuperBuild program, a federal-provincial infrastructure works program, and the Facilities Renewal Program. It also has far larger numbers of alumni members and corporate partners from which to solicit donations. We have seen how federal programs such as the Canada Foundation for Innovation and the Canada Research Chairs Programs, have disproportionately benefited central universities. This cannot be allowed to occur also in the case of funding for deferred maintenance. The CAUBO report states that the 10 largest universities account for more than 40 per cent of the total deficit in infrastructure in Canada. However, there must be a fair distribution of funds so smaller institutions have fair access.

Particularly, smaller liberal arts institutions in regions such as Atlantic provinces must receive their fair share. This is not just important to the economy and culture of the Atlantic provinces; it is essential for the strength and health of the entire post-secondary education system in Canada. We cannot allow our post-secondary institutions to wither slowly, eventually leaving only a few select, elite universities chasing technological and scientific research funds. We must preserve a balanced range of institutions, in all regions, in all disciplines, of all sizes. Diversity is as essential in the post-secondary world as it is in the population, in regions and in opinions. It is what helps a society to retain its health, vitality and flexibility and move it forward.

Some observers marvel at the scientific and technological discoveries and changes that are occurring at an ever-increasing rate. There is an irresistible logic that because the future is in science and technology our universities and colleges must transform themselves to produce the necessary workforce of scientists and computer experts. The arts and humanities seem to be quaint holdbacks that are of decreasing relevance, in the minds of some.

I disagree with this view of post-secondary education. To quote from a letter recently written:

A liberal arts and science education nurtures the skills and talents increasingly valued by modern corporations. Our companies function in a state of constant flux. To prosper we need creative thinkers at all levels of the enterprise that are comfortable dealing with decisions in the bigger context. They must be able to communicate — to reason, create, write and speak — for shared purposes: For hiring, training, management, marketing, and policy-making. In short, they provide leadership.

The letter this statement comes from was signed by many of the CEOs of Canada's high-tech corporations in response to a proposal —

**The Hon. the Speaker:** I am sorry to advise the honourable senator that 15 minutes has expired.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I think we would give leave, but I hope it has been noted that even the clock stops when Senator Kinsella speaks so eloquently.

**The Hon. the Speaker:** Is leave granted for the honourable senator to continue?

**Hon. Senators:** Agreed.

**Senator Kinsella:** Honourable senators, I was watching that clock. I have five more lines. I tried to time it, but it is a technical problem.

The letter that I quoted from was from the CEOs of high-tech companies.

To conclude, we must support and maintain our post-secondary system and ensure that the deferred maintenance crisis is addressed. We must also ensure that whatever support we provide is distributed in a manner that is sustainable, equitable and weighted to benefit all regions. It must also recognize and not inadvertently penalize those universities that have made sound management planning decisions in the past and those that are making them now.

• (1810)

On motion of Senator Robichaud, for Senator Austin, debate adjourned.

[Translation]

## PROCEEDS OF CRIME (MONEY LAUNDERING) ACT

BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning

Bill S-16, to amend the Proceeds of Crime (Money Laundering) Act, and acquainting the Senate that they have passed this bill without amendment.

[English]

## ETHICS COUNSELLOR

MOTION TO CHANGE PROCESS OF SELECTION—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator DeWare:

That the Senate endorse and support the following policy from Liberal Red Book 1, which recommends the appointment of “an independent Ethics Counsellor to advise both public officials and lobbyists in the day-to-day application of the Code of Conduct for Public Officials. The Ethics Counsellor will be appointed after consultation with the leaders of all parties in the House of Commons and report directly to Parliament.”;

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with this decision of the Senate.—(*Honourable Senator Finnerty*).

**Hon. Isobel Finnerty:** Honourable senators, in 1994, the Prime Minister established the Conflict of Interest and Post-Employment Code for Public Office Holders. This was followed by the appointment of the ethics counsellor. The code that the Ethics Counsellor administers covers almost 1,300 people, including the Prime Minister, the members of cabinet, their spouses and dependent children, members of the political staff of ministers and senior officials in the public service. There are also provisions in the code to give advice to lobbyists.

For the very first time in Canadian history, this large group of senior office holders must disclose their assets. They are also required to declare any and all relevant business and related activities in which they, their spouses and dependants engage. Never before have those people, who are in positions to influence the decision making of the Government of Canada, been required to meet such rigorous standards of conduct.

Since these regulations were established, no minister has had to resign because of personal issues or ministerial responsibilities. This is a record of which Canadians can be particularly proud.



Canadians today know that our framework and code for conflict of interest is working. If Canadians believed otherwise, they could have said so during the 2000 election campaign. Before the election, members of the opposition tried to make the work of the Ethics Counsellor an issue. Some members of the other place attacked the Ethics Counsellor. They failed to establish any impropriety. When the election was called, they continued their attack. They tried hard to convince Canadians that the Ethics Counsellor is neither impartial nor independent. Their strategy was to discredit the Prime Minister and the Liberal Party.

Honourable senators, the attack did not work. The Canadian people pronounced their verdict on these charges on election day. The Liberal Party was elected with an even larger majority. The people of Canada spoke. It is clear that the work of the Ethics Counsellor does not replace the work of law enforcement agencies, including the police, the Crown attorneys and the judiciary.

Suspected breaches of the Canadian Criminal Code, such as bribery or influence peddling, have always been police matters, and so they should. The essential elements of the work of the Ethics Counsellor involves three principles: avoidance, disclosure and honour. In short, it is an integrity-based framework. It is designed to encourage those at the senior level of government to act responsibly and to avoid conflicts. It also serves to clarify all matters related to the Lobbyists Registration Act and the Lobbyists Code of Conduct.

I suggest to all honourable senators that this national framework serves as an excellent example for provincial and municipal authorities to follow. There will be those who suggest that the Province of Alberta has a strong conflict of interest code. The evidence, however, points to the reverse. It is an issue that has been debated by the public there since 1996 under a process known as the "Multi-Corp investigation." It was revealed that there are no clear standards in Alberta dealing with this area. The Alberta framework is certainly not a model for the rest of Canada to follow.

Ultimately, of course, the question of accountability is met on a daily basis in a democracy. In our democracy, there are many points of regular accountability; for example, the media, radio hotline shows, editorials, TV roundtables, letters to the editor and press conferences. In Parliament there is the daily Question Period in both Houses and there are also parliamentary committees. In fact, the Ethics Counsellor has appeared before a parliamentary committee to publicly defend and explain decisions he has made. This fact greatly enhances the framework and transparency of independence of the Office of the Ethics Counsellor.

Ultimately, it is the electorate to which government is accountable. During the mandate of the government this is certainly true, but it is most certainly obvious at election time. Canadians have decided that it is the Liberal Party that has

restored their confidence in their elected officials. Canadians believe that our Ethics Counsellor is serving us well. Canadians believe that the senior decision makers in the Government of Canada are accountable to them.

**Hon. Consiglio Di Nino:** Would the honourable senator take a question?

**Senator Finnerty:** Yes, I would.

**Senator Di Nino:** Would my honourable colleague care to give me her opinion as to whether the Ethics Counsellor should be appointed with the consultation of the leaders of all parties? Would she have a problem with that?

**Senator Finnerty:** I do not see anything wrong with the situation we have now.

**Senator Di Nino:** Honourable senators, after reading the marvellous speech that someone from the other place prepared for my honourable friend, does she —

**Some Hon. Senators:** Oh, oh!

**Senator Di Nino:** It was a good speech.

Does my honourable friend and colleague believe that the Ethics Counsellor should report to the House of Commons?

**Senator Finnerty:** Honourable senators, the Ethics Counsellor has appeared before the Senate to answer our questions, and I am sure he has appeared before the House of Commons to answer their questions.

By the way, Senator Di Nino, I wrote my own speech.

**Some Hon. Senators:** Hear, hear!

**Senator Di Nino:** I withdraw my accusation because I happen to think very dearly of my honourable friend and colleague.

I will ask two quick questions that the honourable senator can answer together. First, was the statement in Senator Oliver's motion contained in the Liberal Red Book; and, second, does Senator Finnerty think that the government should keep the promises it makes to Canadians, particularly when it does so in writing?

**Senator Finnerty:** Honourable senators, I do think we should keep our promises and I believe we have tried very hard to do that.

**Senator Di Nino:** I am glad that my friend answers questions. The honourable senator has learned very well from some experts.

On motion of Senator Di Nino, debate adjourned.

The Senate adjourned until tomorrow at 2 p.m.



## CONTENTS

Monday, June 11, 2001

	PAGE		PAGE
<b>SENATOR'S STATEMENT</b>		Senator Robichaud (Delayed Answer) .....	1057
<b>The Late Al Munroe</b>		<b>Human Resources Development</b>	
Tribute, Senator Carstairs .....	1055	Employment Insurance Act—Ruling on Contravention of Charter of Rights and Freedoms.	
<hr/>		Question by Senator Murray.	
<b>ROUTINE PROCEEDINGS</b>		Senator Robichaud (Delayed Answer) .....	1057
<b>Information Commissioner</b>		<b>Human Rights Commission</b>	
Annual Report Tabled. ....	1055	Racism on Internet—Limitation of Resources to Respond.	
<b>The Senate</b>		Question by Senator Kinsella.	
Report of Mission to Saudi Arabia and Qatar,		Senator Robichaud (Delayed Answer) .....	1058
January 18-25, 2001, Senator Rompkey .....	1055	<hr/>	
<b>Study on Nuclear Reactor Safety</b>		<b>ORDERS OF THE DAY</b>	
Interim Report of Energy, the Environment and		<b>Patent Act (Bill S-17)</b>	
Natural Resources Committee Tabled, Senator Taylor .....	1055	Bill to Amend—Message from Commons. ....	1058
<b>Parliament of Canada Act</b>		<b>Imperial Life Assurance Company of Canada (Bill S-27)</b>	
<b>Members of Parliament Retiring Allowances Act</b>		Private Bill—Message from Commons. ....	1058
<b>Salaries Act (Bill C-28)</b>		<b>Certas Direct Insurance Company (Bill S-28)</b>	
Bill to Amend—First Reading. ....	1055	Private Bill—Message from Commons. ....	1059
<b>Broadcasting Act (Bill S-29)</b>		<b>Canada Business Corporations Act</b>	
Bill to amend—First reading, Senator Gauthier .....	1056	<b>Canada Cooperatives Act (Bill S-11)</b>	
<b>National Finance</b>		Bill to Amend—Message from Commons. ....	1059
Notice of Motion to Authorize Committee to		<b>Canada Foundation for Sustainable Development</b>	
Study Effectiveness of Present Equalization Policy,		<b>Technology Bill (Bill C-4)</b>	
Senator Rompkey .....	1056	Third Reading—Point of Order, Senator Lynch-Staunton .....	1059
<b>Social Affairs, Science and Technology</b>		Senator Robichaud .....	1062
Notice of Motion to Authorize Committee to Meet		Senator Kinsella .....	1062
During Sitting of the Senate, Senator LeBreton .....	1056	Senator Carstairs .....	1063
<b>Internal Economy, Budgets and Administration</b>		Senator Taylor .....	1064
Notice of Motion to Authorize Committee		<b>Sales Tax and Excise Tax</b>	
to Study Renewal of Broadcasting Contract with CPAC,		<b>Amendments Bill, 2001 (Bill C-13)</b>	
Senator Gauthier .....	1056	Third Reading—Debate Adjourned, Senator Rompkey .....	1064
<hr/>		<b>Tobacco Tax Amendments Bill, 2001 (Bill C-26)</b>	
<b>QUESTION PERIOD</b>		Third Reading—Debate Adjourned, Senator Carstairs .....	1065
<b>National Defence</b>		Senator Morin .....	1066
Replacement of Sea King Helicopters—Involvement of		Senator Tkachuk .....	1067
Deputy Prime Minister in Cabinet Committee		<b>Income Tax Amendments Bill, 2000 (Bill C-22)</b>	
Overseeing Purchase Competition, Senator Forrestall .....	1056	Third Reading—Debate Adjourned, Senator Banks .....	1067
Senator Carstairs .....	1057	<b>Budget Implementation Act, 1997</b>	
<b>Delayed Answers to Oral Questions</b>		<b>Financial Administration Act (Bill C-17)</b>	
Senator Robichaud .....	1057	Bill to amend—Third Reading, Senator Morin .....	1068
<b>Foreign Affairs</b>		Senator Bolduc .....	1069
United States—Missile Defence System—Consultation Process.		<b>Canada Elections Act</b>	
Question by Senator Andreychuk.		<b>Electoral Boundaries Readjustment Act (Bill C-9)</b>	
		Bill to Amend—Third Reading—Debate Adjourned.	
		Senator Moore .....	1070

	PAGE		PAGE
<b>Eldorado Nuclear Limited Reorganization and Divestiture Act Petro-Canada Public Participation Act (Bill C-3)</b>		<b>Scrutiny of Regulations</b>	
Bill to Amend—Declaration of Conflict of Interest.		Budget—Report “C” of Joint Committee Adopted.	
Senator Taylor .....	1071	Senator Hervieux-Payette .....	1074
<b>National Horse of Canada Bill (Bill S-22)</b>		<b>Deferred Maintenance Costs in Canadian Post-Secondary Institutions</b>	
Second Reading, Senator Murray .....	1071	Inquiry—Debate Continued, Senator Kinsella .....	1074
Senator Wiebe .....	1072	Senator Kenny .....	1074
Referred to Committee. ....	1073	Senator Kinsella .....	1075
<b>Bill to Remove Certain Doubts Regarding the Meaning of Marriage (Bill S-9)</b>		Senator Carstairs .....	1076
Second Reading—Debate Continued, Senator Cools .....	1073	<b>Proceeds of Crime (Money Laundering) Act (Bill S-16)</b>	
<b>Defence and Security</b>		Bill to Amend—Message from Commons. ....	1076
Budget and Request for Authority to Engage Services and Travel—Report of Committee Adopted.		<b>Ethics Counsellor</b>	
Senator Kenny .....	1073	Motion to Change Process of Selection—Debate Continued.	
<b>Internal, Economy, Budgets and Administration</b>		Senator Finnerty .....	1076
Seventh Report of Committee Adopted, Senator Kroft .....	1073	Senator Di Nino .....	1077



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# Debates of the Senate

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• 37th PARLIAMENT

• VOLUME 139

• NUMBER 46

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OFFICIAL REPORT  
(HANSARD)

**Tuesday, June 12, 2001**

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Tuesday, June 12, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of a delegation under the direction of His Excellency Adrian Severin, President of the Parliamentary Assembly of the Organization for Security and Co-operation in Europe.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

[English]

### THE HONOURABLE ERMINIE J. COHEN

#### TRIBUTES ON RETIREMENT

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, if Erminie Cohen was to be described in but a few words, being called the "conscience of the Senate" would certainly be the most fitting, for she has brought to Parliament an active awareness and concern for those fellow citizens too often neglected, not to say too often ignored.

Many Canadians boast of their country being declared the best in the world, but the many who live in poverty, or are subjected to discrimination, or for all intents and purposes are rejected by society, despair in never sharing in the pride exhibited by the more fortunate. It is these fellow citizens to whom Erminie has devoted all her life.

Senator Erminie Cohen was on the New Brunswick and Canadian Advisory Council on the Status of Women. She helped found the Saint John Women for Action, and a shelter for battered women and their children. She was on the New Brunswick Task Force on Sexual Harassment in the Workplace.

A few years after being called here, Senator Cohen chaired the first Atlantic Poor People's Conference in Saint John. *Sounding the Alarm: Poverty in Canada*, published in February 1997, has been widely distributed and is used as a teaching text in a number of universities in this country.

Senator Cohen sponsored Bill S-11, which prohibited discrimination because of one's social condition. It passed here unanimously but was defeated in the other place. In March 1999, she co-chaired the Progressive Conservative Caucus Task Force on Poverty, which held extensive hearings across the country and resulted in a highly praised report entitled, "It's Up to Us." Her latest effort has been to examine the quality of life in Canadian military families, and her report of last April followed extensive interviews at Gagetown.

Erminie Cohen has been honoured by her community, her city and her province for her extraordinary commitment and devotion to them, and her leaving the Senate will only give her more time to engage in selfless activities on behalf of others. For instance, she will become the co-chair of the Domestic Violence Community Action Group in Saint John.

Erminie, the Senate has been honoured to have you as a member. In only eight years you have made an impact that few serving much longer are able to achieve. We have all recognized in you how much you care for those for whom the future appears no more promising than the present. You have been our conscience, and leaving will, I am sure, not lessen what that has brought to all of us.

I thank Eddie, to whom I wish a speedy recovery after that nasty fall, and your family, here and at home, for allowing us to benefit from the extraordinary generosity and compassion of a very fine person and colleague. You are an enviable credit to Parliament.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I rise today to speak about a colleague who, over our years together in this chamber, has become a friend. Senator Cohen came to the Senate just more than a year before I came to the Senate. In my years here I have watched her as a member of a number of committees. Whether it was Agriculture or Internal Economy, or Legal and Constitutional Affairs, or Social Affairs, Science and Technology, or, indeed, Veterans Affairs, Erminie always brought a human face to the committee and to this institution.

• (1410)

She took an interest in the welfare of people. Whether an individual was a member of the chamber, the staff or our Armed Forces, he or she always knew that Erminie would ask sensitive, intuitive questions: "How are you doing? How is life treating you? What can I do for you?" The last question was the most important one to her — "What can I do for you?" — because she wanted to reach out and do for others.

When Erminie would meet with people from all walks of life, she would come into this chamber and tell us about them. Erminie made us think in the same human terms as she thought.

Senator Cohen and I have a particular bond because she had been the co-chair of the fundraising committee for the Muriel McQueen Fergusson Centre for Family Violence Research at the University of New Brunswick. I took on the same job of trying to raise money for the centre at the University of Manitoba. Erminie and I had a bond about issues involving violence toward women and children, violence that unfortunately does not know provincial boundaries.

Senator Cohen has worked with many other organizations. When I gathered the materials for my remarks today, I was amazed at the number of organizations with which she has been associated. Whether it was the United Way, the Royal Society of Canada, or organizations in her own Jewish faith, she has contributed over and over again. She has contributed to this country, and I know she will continue to contribute to Canada, through her beliefs in Canada as a federation and her beliefs in the Progressive Conservative Party.

Senator Cohen's public and private accolades are noted. Her work on the State of Israel bonds, the designation to have her named Woman of the Year, all of these things are noted, and we salute her for them. However, we know, in her heart of hearts, that it has been the help she has given to individuals that has been the highlight of her life.

To Erminie's husband, Edgar, her children, Shelley, Lee and Cathy, and her grandson, Micah, you can have her back, but expect her to be busy, because she will always be busy. *L'chaim*, Erminie.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, Parliament is a better place because Erminie Cohen has served in this house. She leaves this place in a better condition than when she arrived. Our colleague has been a model senator, a careful political thinker and a true social worker.

As a political scientist, she recognizes that the question of the relationship of political theory and social action has exercised students of politics since antiquity. No practice without theory, no applied work without good policy — this she has taught us all, with the approval of Plato and Aristotle.

The focus today in Canada on the tragedy of poverty, particularly the impact of poverty on children, is due to Senator Cohen having sounded the alarm. The efforts of government and the NGO community across Canada to challenge poverty in large measure carries the mark of this remarkable woman.

Equally remarkable was Senator Cohen's fortitude and strength during the parliamentary inquiry into the question of

custody and access. She continues her struggle to have social condition added as a prohibitive ground of discrimination in the Canadian Human Rights Act.

Honourable senators, this outstanding woman, who has worked in Parliament's Red Chamber, along the banks of the Ottawa at the mouth of the Rideau, has never forgotten the solid values she learned and practised in her community, on the Bay of Fundy, at the mouth of the Saint John River. She may soon exit this chamber, but she will not be silenced. We shall be hearing much more from Senator Cohen, albeit from a changed venue.

The book of Esther, at chapter 10, gives a description of that biblical queen, an account that applies equally to Erminie:

The little fountain which grew into a river and was turned into a light, and into the sun, and abounded into many waters...

Esther was King Assuerus's queen. To Eddie's queen, we express our gratitude for her light, for her enthusiasm, for her zeal.

Congratulations on your effectiveness in this place. We are privileged to have benefited from Dr. Cohen's generosity and active citizenship. Indeed, our system of governance is dependent on good citizens like Erminie, a person who is prepared to make many personal sacrifices in order to serve our country. It is, therefore, that we salute her achievements and honour a New Brunswicker who has given exemplary service to Canada and has met her parliamentary duty with distinction.

**Hon. B. Alasdair Graham:** Honourable senators, Nellie McClung wrote, many decades ago, that a woman's place in the new order is to bring vision and imagination to work on life's problems. I can almost hear the cheers from the Famous Five, so beautifully sculpted, one can almost believe they still live, only a stone's throw away, outside these walls, as the Senate of Canada today pays tribute to one of the most outstanding women ever to have graced this chamber, our colleague, our friend, Senator Erminie Cohen.

Erminie, you have been truly an exceptional woman of vision and imagination. If the world's problems ever seemed overwhelming at times, your spirit always shone through. No task ever seemed too great, no mountain ever too high to climb.

Someone once said that injustice anywhere is a threat to justice everywhere. Senator Cohen, you have made that belief a guiding principle in your life, demonstrating by your commitment and your passion to human rights and freedoms that indifference to injustice is the essence of inhumanity.

Senator Cohen has spent a lifetime building bridges of empowerment for battered women, the sick and the marginalized, bridges that have helped many deserving women enter political life.



Elie Wiesel, the great Nobel Prize winner once wrote movingly of the struggle for human dignity this way, and I quote:

Sometimes, we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant. Whenever men or women are persecuted because of their race, religion or political views, that place must — at that moment — become the centre of the universe.

As I thought about some of the prestigious awards that Senator Cohen has won, I reflected on the source of much of Senator Cohen's remarkable dedication. Erminie has always placed the struggle for humanity at the centre of her personal universe.

Honourable senators, there is a remarkable vision here, the same kind of vision that lay at the heart of the foundation of Israel over 50 years ago. Isaiah once wrote about the kind of spirit that brought orange groves to the desert and water to the wilderness. Erminie has always shown that spirit, whether it has been in service to the people of her community, her province or her country, and always, of course, of utmost importance, her family.

• (1420)

Senator Cohen, you have made a difference in this chamber and in the lives of all of those privileged to know you. Today, we thank a noble lady who has brought great honour to this institution. We wish you much happiness and good health in your retirement with your remarkable family.

**Hon. Lowell Murray:** Honourable senators, age is creeping up on us all. In my case, it has overtaken me. I must acknowledge that I knew Senator Cohen's late father-in-law before I met her. He was a pillar of the Tory Party in New Brunswick in good times and bad for many years. So, too, was her husband, who has been a friend of mine for going on 40 years. I knew assorted in-laws of Senator Cohen in Cape Breton. They were emphatically not pillars of the Tory Party. They were Liberals, but respectable people all the same.

About Senator Cohen's son Lee Cohen, a lawyer, I heard from him only once. He wanted to plead on behalf of a group of terrified Filipino seamen who had seen stowaways cut adrift, had jumped ship and were seeking landed immigrant status in Canada. Knowing his mother, I was not surprised that he had befriended those impoverished, desperate refugees and was defending their cause — successfully, as it turned out. He could not have done otherwise. He carries a strong humanitarian gene, and he has a nice but very determined mother.

The record of Erminie Cohen's service to her fellow citizens could fill many volumes. The witnesses to her generosity could fill a hall many times over, as they did in 1998 when she was honoured by the Jewish National Fund at their Negev Dinner in

Saint John. People of all ages and background, representing every social and economic condition, came to thank her and honour her because her compassion and commitment had touched their lives and the life of the Saint John community for the better.

Last month, she was awarded an honorary doctorate of laws degree from the University of New Brunswick.

There is an anecdote that I will share with Erminie and with all honourable senators for the first time. Not long before Erminie's appointment to the Senate, I was approached by a very senior person in the then Liberal Government of New Brunswick. My attention was drawn to the fact that a vacancy was imminent in the Office of the Lieutenant-Governor of New Brunswick. This New Brunswick Liberal wanted us to know that if the federal government chose our Tory friend Erminie Cohen for the vice-regal office, this would be very well received indeed.

Perhaps Mr. Mulroney and I should feel guilty for not having told her at the time. However, we do not feel guilty. I think I can speak for both of us and for the Progressive Conservative Party in saying that we are honoured to have had her as a colleague. We are proud that she found, in the Progressive Conservative Party, and in the Senate, a worthy home from which to carry on for the past eight years the humanitarian service that has been her life's work and for which so many are grateful.

[Translation]

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I am pleased to have this opportunity to pay tribute to a colleague and a great lady from New Brunswick, whom I have the honour to call my friend.

I first met Erminie Cohen back in 1977 when I sat on New Brunswick's first advisory council on the status of women, and came to appreciate the work she was doing for the women of New Brunswick.

Her commitment to such issues as poverty, family violence, human rights — to name but a few — is clear evidence of her altruism and humanity.

[English]

I do not want to repeat all the achievements and prestigious awards of Senator Cohen that my colleagues have so well enumerated. Erminie Cohen has been representing the interests of the people of New Brunswick and other Canadians in the Senate of Canada since June 1993. When I arrived at the Senate in 1995, I was happy to see her again and have a chance to work with her on the Standing Senate Committee on Social Affairs, Science and Technology. Later, we participated in other activities relating to women's issues and poverty.



In addition to our common interest in people issues, Erminie Cohen and I have something else in common. We share a minority status. Senator Cohen was the first Jewish New Brunswicker named to the Senate and I was the first Acadian woman from New Brunswick appointed to the Senate.

In an interview with *The Hill Times* in February 1995, Erminie Cohen said that one of her greatest regrets was that she is not bilingual. She is still working on it, and I know that her numerous francophone friends in New Brunswick will continue to evaluate her linguistic capacity.

In October 1998, Senator Cohen was honoured by the Jewish National Fund at the Negev Dinner. She chose as her project to have a forest planted in the Negev Desert called the New Brunswick Forest.

On May 18, 2001, Senator Cohen received an honorary Doctorate of Laws degree from the University of New Brunswick, Saint John, for her significant contributions to New Brunswick and Canada.

Erminie, on behalf of all the women in New Brunswick, I thank you for your continuous involvement and wish you a happy and restful retirement. You will now have more time to share with your loveable husband Edgar the joys and friendship of your three children and your grandson.

May the sun shine every day in the Cohen home on the Bay of Fundy.

**Hon. Brenda M. Robertson:** Erminie, I will miss you. I am glad the girls are here today, but I am so sorry that Eddie is not. May he enjoy a speedy recovery. Give him our love.

I want to say a few things on behalf of Senator Simard and myself because, as New Brunswickers, we are very proud of Erminie Cohen. She has done so much here. It can be truly said that she thrived on her work in the Senate. She made the adjustment so easily. When she came here in 1993, I did not know her very well personally. I knew her husband Eddie for many years because he did politics; Erminie did the store.

In another life, when I was part of Richard Hatfield's government, I always went across the street early in the morning when I was Saint John to a little restaurant where Eddie and another good friend, Ralph Stephen, used to have their breakfast. Of course, Ralph is no longer with us. We had such delightful breakfasts. We did not talk about Erminie at all. She was in the store. We talked about politics. I got all the gossip about what was going on in Saint John. We discussed the proper approach to problems and I very much appreciated the good advice they gave me.

• (1430)

I shall not repeat all of the delightful and honest comments that other senators have made, because repetitions can become boring, and you, Senator Cohen, are not boring. When I listened to those comments, I thought, "Well, Erminie has worked so hard all of her life and she has done so many good things that people may think she is a little boring." Now, I would not say that you are a comedian, but I tell you, honourable senators, she is blessed with a very sharp wit.

The librarian at the Saint John Regional Library told me that when Senator Cohen was working as a volunteer there, a gentleman came in and asked for the book entitled, "Man, The Superior Sex." Erminie was quick to reply, "Fiction is on the second floor."

Senator Cohen is also not known as a practical joker, although I have heard it said, Erminie, that you played one huge practical joke in your life and that was marrying your dear husband Eddie, who, as you know, was a world-class practical joker. However, he did not always get the best of Erminie, nor did he get too far ahead of Erminie in this particular matter: When they were first married, Eddie and Erminie often travelled to Boston with friends. I have to tell you that, people living in Saint John are totally different from people living in Southeast New Brunswick. People in Saint John always went to Boston or to New York, and people living in Moncton always went to Montreal or Toronto. It must have been a genetic thing, but I always found it fascinating. I prefer Montreal; and they prefer Boston.

On the first trip to Boston, after they were married, Eddie and Erminie were standing in front of a handsome young desk clerk. While Eddie was filling out the registration card, he turned to his new bride and said, "What did you say your name is?" Of course, Erminie was humiliated and wanted to crawl into the woodwork.

A few weeks later, on a second trip to Boston, at the same hotel and in front of the same handsome desk clerk, when Eddie repeated his practical joke, Erminie was only embarrassed. The third time Eddie played his same joke, in front of the same very handsome desk clerk, Erminie was prepared. She gave the desk clerk a very sweet smile and a shy wink, so I am told, and she tucked a piece of notepaper in the desk clerk's hand with a big wink and a big smile. Of course, the room clerk winked back and embarrassed Eddie. He never tried that trick again, and he also did not know that there was not a word written on that piece of paper.

Erminie, regardless of all of this, the marriage prospered. Prior to her appointment to the Senate, Erminie and Eddie operated a fashion store and real estate developments in Saint John for over 50 years, while raising three wonderful children, two of whom, Cathy and Shelley, are here this afternoon.

Senator Cohen, my dear friend Erminie, was and is a tireless worker on behalf of her community, her province and her country. One of her problems is that she cannot say "no" to helping others. You do have a problem, Erminie: You cannot say, "no." You were always at it. You have always been unable to say no to these groups that others have also mentioned — the United Way, the Juvenile Diabetes Foundation, the Thyroid Foundation, the YM/YWCA, the Hadassah Bazaar and your Synagogue. Senator Cohen was unable to say "no" when Premier McKenna asked her to co-chair the New Brunswick Committee for Canada, when Prime Minister Mulroney asked her to come to the Senate and when the Right Honourable Joe Clark asked her to co-chair the PC National Caucus Task Force on Poverty.

Opera New Brunswick will benefit from Erminie's wisdom and energy when she assumes her new role as its President.

Those who know Senator Cohen know that she is passionate about her causes. Others have mentioned the recognition that she has received from the Jewish National Fund, the United Nations, the State of Israel, the Anti-poverty Organization, the Salvation Army, and, of course, her recent honorary degree.

She has taught all of those with whom she has come into contact that fighting for the minority earns you the respect of the majority. She has always lived by that motto. She has left her mark in the Senate, and it will be a lesser place without you, Erminie. She has certainly left her mark on Senator Simard and on me, because we came to know you much better here in the Senate.

We are proud, Erminie, after eight years of watching you and working with you, to call you our friend. As New Brunswickers, we are proud and we wish you, the children, your grandchild and Eddie all the best. I will see you often, but others may not, perhaps, have that opportunity, and that is their loss. We claim Erminie as a New Brunswicker, and we are very proud of her. We wish you well, Erminie.

**Hon. Vivienne Poy:** Honourable senators, three years ago, when I first came to the Senate, Senator Cohen helped me to become familiar with the work of the Senate committees. Whether she knows it or not, she was the one who put the human face on the Senate for me. I was fortunate to sit beside her, most of the time, on the Standing Senate Committee on Social Affairs, Science and Technology. I felt very lucky to have her as a colleague, since Erminie has a wealth of experience in championing social justice causes. I believe we share many of the same values.

Since 1993, when Senator Cohen joined the Senate, she has focused on people issues such as poverty, domestic violence, human rights and health and literacy, among others.

Erminie's most recent contribution was her report on the living conditions of Canadian Forces personnel and their families,

which followed up on a critical report issued by the other place in 1998. In her research, Erminie went directly to the soldiers and their families to find out what issues still needed to be addressed by military leadership. In pursuing this inquiry in the military, Erminie did what she had done throughout her life: She went out into the community and talked to people. This is something that I have learned from her.

Erminie is retiring from the Senate this summer and she will be greatly missed. However, I have no doubt that she will continue her work in the community for many more years to come. With her departure, I feel I am losing a valued colleague, mentor and friend. Like everyone here, I will miss you.

• (1440)

**Hon. Mabel M. DeWare:** Erminie Joy Cohen was born on July 21, 1926. It is an interesting name, Erminie Joy, because joy is what she has been to most of us since she arrived here in the Senate in 1993.

She has brought a human element to politics in opening her heart to the plight of those less fortunate in our society, giving them a forum to discuss their hopes, fears and concerns, and ultimately giving them the opportunity to help influence public policy.

Travelling with Erminie on the study of custody and access was heart-wrenching for all of us. Senator Carstairs and I both recognized that Erminie was the one who showed us what warmth and compassion for those less fortunate was all about.

Erminie has been an integral part of her community for over 50 years, which means that she started at a very young age, probably just after college, or even before that. As you know, she has received numerous awards and honours. I would like to join others in congratulating her in receiving her honorary degree three weeks ago from the University of New Brunswick, Saint John, in recognition for her tireless work on poverty, human rights and women's issues. It was such an appropriate honour.

As she leaves this place to join her family, her husband, Eddie, and her community, we wish her well. We know how much we appreciate the unselfish contributions she has made for us and for all Canadians.

Ralph joins me in personally thanking you for your very kind warmth and friendship.

**Hon. Sheila Finestone:** Honourable senators, it is a distinct privilege and pleasure to rise here and speak of a woman I barely knew until Beijing, and what a wonderful treat that was. There was a woman who had worked for years to empower the poor, to empower women. She understood that equity was the first step to equality, and she understood what empowerment meant because she knew it from the grassroots.



Erminie was fun to travel with. I would not say she was sick as a dog, but that is what she was, on a train that ended up in Nanjing. She was sick and miserable at that point, along with Hedy Fry, but we managed to buy a few scarves, nonetheless.

This was a woman who really had a taste for clothes. We used to enjoy watching her. We talked about how smart she was, not only in how she dressed but in how she presented herself. She is delightful and charming, and a true woman of valour.

In my Jewish history and background, "a woman of valour" is a great tribute. If there is anyone who can speak to a woman of valour and define her, they can define an Erminie Cohen.

Honourable senators have all talked about the awards that this woman has earned in the course of a lifetime. They have spoken of her contribution to society and her particular approach to the serious concerns that she met face to face, and of the changes that she tried to make with respect to poverty and a society in which we all know there is a serious, serious problem.

Erminie Cohen's work was brought to the attention of Canadians through research that was done when a study was undertaken on the Canadian Human Rights Act and the changes that should be brought to our attention. I believe it was Justice La Forest. That report dedicates eight pages to her and the work she has done.

Erminie, I can tell you that as a change agent, as someone who looked at social conditions and who was prepared to speak out about them, as someone who was fun and interesting to be with on the custody and access committee as we travelled, and as a really marvelous, exciting, and dynamic woman, we thank you, and we will miss you.

**Hon. Mira Spivak:** Honourable senators, when I first came to the Senate, my preconceived notion of a senator was exemplified by Royce Frith, who is tall, elegant, aristocratic, the glass of fashion, witty and acerbic, the product of Upper Canada, I imagined, and the epitome of Rosedale chic.

Fast forward to a paradigm shift: that was then and this is now. It is outer Canada's representatives who are burnishing the image of the ideal senator. Today, I do not know how many people are here from New Brunswick: half the Senate, it would appear.

Erminie Cohen, senator who has combined courageous behaviour with a warm heart, a spirited advocacy with a generous leavening of common sense, has raised advocacy to the level of high art. She can handle a Passover dinner for 40, minutes after her Ottawa flight touches down in Saint John. This is true.

It is rare that those who espouse worthy causes are not afraid to allow emotion to dictate their actions and have the will, the

passion and the pragmatism to do something about perceived injustice.

After attending the Poor People's Conference in 1996, she moved quickly. This was at a time when the deficit-fighting, cost-cutting agenda was at a frenzied peak. Tax cuts were seen as winning, deficit reduction as sexy, and cozying up to the poverty issue might just turn off potential partners of the right-wing persuasion. However, she was undeterred. "Sounding the Alarm" was heralded by anti-poverty groups as a remarkably sensitive appraisal, and the "It's Up to Us" task force report was seen as an amazingly bold document. Both were an attack on piecemeal solutions — playing at the edge of problems — and were a call for political will.

Of course, there are other areas where Erminie has made a contribution. I am glad someone mentioned the forest in Israel, human rights legislation and so forth. She has made a contribution and a difference with her principled stance and at some cost. Senator Finestone referred to the Old Testament women of valour, but she forgot to add, "whose price is far above rubies." Actually, I prefer emeralds, but go for it, Erminie. As the ad says, "You're worth it." We shall miss you.

**Hon. Lucie Pépin:** Honourable senators, usually the month of June is synonymous with happiness because it is a symbol of life and hope of a milder season. However, this year our hearts do not rejoice as much because it is our last opportunity to extend our very good wishes to our two departing colleagues, Senator Mabel DeWare and Senator Erminie Cohen.

I had at pleasure to know Senator Cohen during the 1980s, while I was active at the Canadian Advisory Council on the Status of Women. It was at a time when women, on the occasion of the repatriation of the Constitution, were fighting to have their equal rights and status entrenched in the Constitution. It was also the time when Sandra Lovelace, an Aboriginal woman, was fighting in court. It was also in those years that the Canadian Advisory Council on the Status of Women and the provincial ones were pressing the government to adopt legislation to prevent violence against women. Erminie Cohen has taken part in all of those fights and debates.

Senator Cohen maintained her commitments, through her work with the United Way women's shelter and her work on the Task Force on Sexual Harassment in the Workplace.

[Translation]

This is very brief, compared to all the areas in which Erminie has been involved and all her accomplishments. She has spoken out for the disadvantaged, for the poor. Her reports, "Sounding the Alarm: Poverty in Canada," published in 1997 and "It's up to us," published in 2000, are references for eradicating poverty in Canada.



[English]

It is very sad that the legislation to add social discrimination as a prohibited ground of discrimination under the Canadian Human Rights, Bill S-11, was defeated in the House of Commons.

[Translation]

If party politics had not been involved, perhaps there would be fewer disadvantaged children.

[English]

Today, I am losing more than a colleague. I am losing a sister.

[Translation]

We kept crossing paths with each other, and we shared the same objective: social justice. Erminie was also concerned about DND families, visiting military wives and publishing the report "Unsung Heroes: A Quality of Life Perspective on Canada's Military Families."

Erminie, you have my promise that I will carry on with these issues and I will invite you along on my visits to the military bases this summer, if I am allowed to do so. All good things come to an end, including your time here in the Senate.

[English]

I want you to know, dear Erminie, that you have made your mark, not only as a senator who attended regularly, but as a senator who has made an outstanding contribution. You have created a niche by your compassionate approach to social justice for every Canadian. You know, Erminie, that you will always be welcome here, and my office will be at your disposal if you ever need it. You will hear from me because I intend to call you and pick your brain from time to time. I wish you and Eddie the best of health and happiness together.

**Hon. David Tkachuk:** Honourable senators, Erminie, I wish all those Grits would have been of some help when you had an amendment to move. They are happy to see you go.

**Some Hon. Senators:** No, no.

**Senator Tkachuk:** I know, Erminie, that you dislike long testimonials, but it is different when it is for you.

Erminie and I met on that side of the Senate chamber, and I have followed her for eight years as we have made our way all the way up to this row. While before we used to sit over there looking at Conservatives, now we sit over here looking at Liberals. That has been quite a difference. The only time Erminie has ever been to my right is as my neighbour here. Len Gustafson and I are the bookends, and I think the whip put us together on purpose to keep her in line and make sure she does not drift too far to the left.

I might add that Erminie Cohen is a Conservative through and through. She puts a face to the issues, as someone so aptly put it, that she cares about. She relies on her philosophy of self-reliance, creating opportunity, and envisaging, as a government, a means to make things happen. I have never heard Erminie Cohen, in all my years in the caucus, talk about giving money away. Everything had to have a reason and everything had a purpose. She and I have become very good friends.

I have to say, Erminie, that when I am in Saskatchewan, you are of much help to me. There are so many left-wingers in my province. I am always arguing with left-wingers, and they are always railing against Tories' disregard for those less fortunate, and you are my excuse. I say, "That's not true; I know one — Erminie Cohen."

Sharon and I congratulate you. The best compliment a senator can receive, Erminie, is that in the time you have been here, you have not wasted it. If all of us can leave this chamber saying to ourselves, "In the time we have been here, we have not wasted it," we will be happy to leave.

The best of luck and every success to you and your husband, and I know that we will see you many times in the future.

**Hon. Jeremiah S. Grafstein:** Honourable senators, I cannot claim the eloquence of other senators —

**Some Hon. Senators:** Oh, oh.

**Senator Grafstein:** — because I barely knew Senator Cohen before she entered this chamber. I did not know her at all until she came here and I asked about her. I was told by my colleagues from New Brunswick that she had an outstanding reputation. I became more respectful as I watched her work here and watched her debate matters in this house on the side of minorities and others. In my view, her participation in the Senate is commendable.

Honourable senators, when one is stuck with not being able to match the eloquence of others, the best thing one can do is turn to the Bible for guidance. What type of salutation can one offer an auspicious person when they move on to another life or a different life? The best one that I could come across was the salutation that is traditionally given echoing Moses. Moses, as you know, lived to 120 years, so the normal salutation one would give is, "May you live to 120 years." However, on a deeper examination of the Bible, one understands that salutation is not an appropriate one for a woman. Therefore, what is the appropriate salutation for an auspicious woman, a "woman of valour," as Senator Finestone has called her? If you turn to the Bible, there is a deeper and better salutation for Sarah. Sarah was the first of the four mothers, and she lived to 130 years. Therefore, the salutation one should direct to an auspicious woman is, "May you live to 130 years. May your life be long and fruitful." The word "joy" in Hebrew translates to the word "*simcha*." My father's name was Simcha. It means joy. The best salutation one can give you in addition to all that is, "May you have much joy, only *simcha* in the years ahead."

**Hon. Marjory LeBreton:** Honourable senators, it is my great honour to pay tribute to our colleague and my friend, Erminie Cohen. I will be brief because I do not like to say good-bye.

There is not one facet of public service to which Erminie Cohen has not given eagerly and wholeheartedly her many talents. Whether it is the synagogue, libraries, hospitals, her political party, the New Brunswick and Canadian councils counsels on the status of women, her term on the board of the National Capital Commission, or her term in the Senate, all were committed to as full-time endeavours. Unlike many, Erminie did not simply pay lip service to major issues confronting our society. Rather, with great compassion, she dove right in and worked extremely hard to right what was wrong. Many have been listed here today, and I will mention but a few: the debilitating effects of poverty on our society, the horrendous social problem of family violence, and the deplorable housing conditions of the families of Canada's military. Her actions only begin to explain why I and so many others admire Erminie.

However, it is the personal side that I would like to briefly mention. I have known Erminie for many years. In our big tent Tory party — and Senator Tkachuk has shown how big it can be — we were and are sisters in arms. I cannot think of any one issue, in all these years, at all those general meetings and policy conferences on which we were not in lockstep with each other.

I well remember the night that Prime Minister Mulroney called Erminie to inform her that he was appointing her to the Senate. I will leave it to her to tell you her husband's advice that night. The Prime Minister, as he always did, told her to keep it a secret until the announcement was made. She called me right after the Prime Minister's call, and anyone listening in would have been puzzled indeed. My phone rang late in the evening. She said, "Marj, this is Erminie," and there was sustained giggling on both ends of the line.

Erminie has always been such a true friend. When my late daughter's husband, my son-in-law, Ed Holmes, was about to remarry my new daughter-in-law, Tracey Eisenberg, I turned to Erminie to quickly educate me on the heritage and traditions of the Jewish faith.

• (1500)

She gave me books and information cards which were so helpful as my family took on a new blended look.

Erminie, as you take leave of this place, you will be missed by all of us, but for personally speaking, I will miss you more than you know. However, with your energy level and your commitment to worthy causes, I know that we will work together on many endeavours in the future. It is too bad that the calendar intervened — although it certainly does not look like it — and dictated that the Senate could not longer be one of these endeavours.

So to you, Erminie, to Eddie, to your children, Cathy, Lee, and Shelley, and to your grandson, may you continue to have a fulfilling and rewarding life in the future.

**Hon. Leonard J. Gustafson:** Honourable senators, what more can be said about Erminie? I had the privilege of sharing a seat with her for a good portion of the eight years she was here. We came to this place at the same time. I want to say that when Erminie touched your hand and you looked into her face, you knew that you were touched by a compassionate person.

Erminie, you have always fought for the underdog. You even asked, once in a while, "Len, how are the farmers doing?" The hurting have always been foremost on Erminie's list. We salute you today and hope that you will have many years of happiness with your family. God bless.

**The Hon. the Speaker:** Before calling on Senator Cohen, I wish to draw to your attention, honourable senators, the presence in our gallery of two of Senator Cohen's daughters, Cathy Tait and Shelley Cohen-Thorley, and three friends, Stella Torontow, Shimon Fogel and Dr. Ralph DeWare. Welcome to the chamber to share this special time with Senator Cohen.

[Translation]

**Hon. Marcel Prud'homme:** Senator Cohen, I told you many times and I am telling you publicly, I will miss your soothing smile. Whenever I pondered major international political issues, I would look at you, I would go and tell you about them and, with a smile, you would invariably make the most difficult problems manageable. I want to remember your smile. I will miss it.

[English]

**Hon. Erminie J. Cohen:** Honourable senators, I am deeply touched — and not a little bit embarrassed — by the generous and moving tributes of the honourable senators who have spoken.

As a driven leaf out of the turbulence of a volatile and changing Eastern Europe, my grandparents arrived on the shores of the New World with dreams of new lives, where the fear and uncertainty of the Old Country could be replaced by the promise of acceptance and security.

Never, though, honourable senators, in their wildest and most optimistic dreams would they have imagined that a grandchild of theirs — a granddaughter of theirs — would be addressing so noble a group in so august a chamber as both a colleague and friend to bid adieu. I serve as a symbol of "the impossible dream" and rise today draped in equal measures of pride and overwhelming humility to share some final personal thoughts as I prepare to close one chapter of my life and embark upon new challenges.



Conventional wisdom suggests that “familiarity breeds contempt.” Yet, as I reflect on the countless times over the past eight years that I have stood in this place, I find that I remain in as much awe of this institution as on the day I was first sworn in as a senator. In other places, people breathe in air. Here, however, we parliamentarians are afforded the singular honour of breathing in history — layer upon layer of country building, a process to which we have been privileged to offer our modest personal contributions.

Modest though they may be individually, as a whole they represent the richness that is our Canadian heritage and the envy of the world. To the extent that I have played a role in this grand adventure, I am exceedingly grateful.

Honourable senators, I will return to the significance of this place in a moment or two, but first I feel compelled to acknowledge certain individuals who have been an important part of my life over the last number of years and others who have also been so.

I have called us privileged and, indeed, I think all honourable senators will agree; but I think, too, that every woman and man who has served Canada in this place will also agree that this privilege comes dearly. To us accrues the satisfaction and excitement of having helped shape the country, but those who guard the home fires during our frequent absences are truly unsung heroes. I have been blessed manifold in my lifetime, but the gift of a loving and steadfastly supportive life partner, my husband, Edgar, stands ahead of all else. Any sacrifices I have made in my efforts here are his sacrifices too, and he must share in any praise that is directed my way. I am sorry that ill health has prevented him from being with us today.

In truth, I must say that the support he has consistently extended to me in all of my public endeavours is echoed loudly by my children, Cathy, Shelley and Lee. I am grateful to them all for their encouragement and understanding and would like them to know, for the record, that any pride that they may feel in my accomplishments is matched by my pride for all of theirs.

This moment occasions a great deal of introspection, and as my thoughts turn to my family, I am reminded of Robert Heinlein’s observation that captures the essence of that which characterizes our relationship. He wrote:

Love is that condition in which the happiness of another is essential to your own.

If my family has shared the burden of sacrifice with me these last years, they share something else with another group of exceptional people who I have grown to admire, respect and love, what I referred to a moment ago as the “unsung heroes.”

The activities of Parliament revolve around us and our colleagues in the other place. Too often, we fall victim to a common but most regrettable human failing — that of taking others for granted. Our ability to focus on the task at hand is in

large measure due to the countless individuals who toil in the background, ever vigilant in their efforts to ensure the seamless operation of the Senate. The clerks, the research and legal teams with their wealth of talent and experience; those charged with the weighty Senate security; the Senate pages who cheerfully attend to our every need; the messengers who are all there for us; the Senate staff who define excellence and commitment to the democratic process and have all become my extended family; and finally, the translators whose faces are never seen by us but whose contribution is vital — we could not operate without them. During my tenure here, I have always tried to convey my appreciation for their dedication and urge all honourable senators to likewise take the time to express to these exceptional people what I am sure is in their hearts.

Although he penned these words more than a century ago, Oliver Wendell Holmes could have been describing someone very special in my Senate life when he said:

The noblest service comes from nameless hands and the best servant does his work unseen.

I will not let this occasion pass without naming the nameless.

Honourable senators, Suzanne Belliveau is my gatekeeper and organizer, my muse and sounding board, my assistant, my friend. More than any other, Suzanne has helped me navigate through the system and ensure that my message reaches the intended objective. In the spirit of the biblical story of Naomi and Ruth, my concerns and challenges became her concerns and challenges, and I am pleased to have this opportunity to publicly thank Suzanne both for her dedication and her friendship.

• (1510)

Honourable senators, my party leader has often spoken of Canada as a community of communities. Although he was perhaps not speaking specifically of this, I have come to think of the Senate and those who fill the benches on both its sides as a unique community within this wonderful land. I never had the luxury of sitting on the government side of the Senate, except for two weeks. However, I have had the tremendous good fortune of working with a distinguished group of individuals, who, taken together, are the Senate.

In some respects, I find it terribly unfortunate that public attention is so disproportionately focused on the activities of the other place. Cynicism about governance and the political process would decrease substantially if only Canadians could witness the quality of debate that colours our deliberations both here and in committee. During my time in the Senate, I found the thoughtfulness and depth that routinely informed our discussions to be nothing short of remarkable. While it is true that parliamentary democracy is founded on the principle of adversarial political visions, it is inspiring to be part of a process wherein ideas, more often than not, transcend crass partisanship and where parochial allegiances make way for shared values and hopes. I treasure that.



Honourable senators, no institution, including ours, is beyond refinement, and we must all acknowledge that many views on how we can best introduce parliamentary reform merit serious consideration, but let no one advance the proposition that this place is expendable, for to do that would be to rob Canadians of what I profoundly believe to be an extraordinarily valuable democratic asset.

Honourable senators, I have learned much through my experience as a member of the Senate, and I will forever cherish the knowledge that I gained. Most of all, I will treasure the opportunity my tenure has afforded me to draw attention to those who have no voice. The passage of Bill S-11, an Act to Prohibit Social Condition as a Form of Discrimination, which was passed unanimously in the Senate three years ago, was the culmination of several years devoted to providing a voice to those who lost their own. Subsequently, I had the honour of co-chairing a caucus task force on poverty that resulted in the publication of a report entitled "It's Up to Us!"

In my efforts to empower and improve the prospects of those challenged by poverty, and those for whom homelessness is a chronic reality, I have become exceedingly enriched. I pray that, upon my departure, others will serve as the voices of the powerless and invisible. I pray that their needs will not be forgotten and that the will to help them find their own voices will continue. I pray that those here today and those who will take their places in the Senate tomorrow or in the days after will persevere in the endless struggle to bring prosperity and wellbeing to all Canadians. I pray them Godspeed as they carry forward with a legacy of caring that is this place and this country and to which I have been so privileged to contribute.

Honourable senators, mindful of Thomas Jefferson's warning to David Harding that speeches measured by the hour die with the hour, permit me to conclude with a brief Chassidic parable that has its roots in the place from which my grandparents came to Canada: A wise old sage heard reports of a brilliant young scholar who lived in a distant city. Deciding to determine for himself the true greatness of the young man, the sage travelled to the far-off city. Having found the academy in which the young scholar spent all of his time, the old sage quietly observed him from a corner of the great hall. After a couple of days, the young man noticed the sage and motioned him to approach. Before long, the two became immersed in lofty intellectual discussion until it came time for the older sage to return home.

Before leaving, the young man asked the purpose of his visit and received a frank reply, including an assessment that indeed the young scholar was worthy of the reputation that preceded him. The young man enquired whether there was anything else the old sage wanted to know before leaving, and the sage indicated that he had but one question. "Why is it," asked the old man, "that you appear oblivious and indifferent to all the simple people who pass through this place?" The young scholar nodded his agreement and explained that he was absorbed in the most

profound of academic and intellectual inquiries and could not be bothered with the trivial and mundane needs of simple folk.

Without another word, the old sage stood and headed toward the door, gently shaking his head. Just as he was about to pass through the door, he turned back to the young scholar and observed, "When it is cold, there are two ways in which an individual can keep warm: He can put on a fur coat or light a fire. The difference between the two is that a fur coat will only keep the one individual warm, while the fire will warm all those around."

Honourable senators, this Senate can be a fire that warms all Canadians and you the matches that light that fire. Keep it glowing and chase the cold from the room. Thank you, and may God bless you all. It was an honour to be one of you.

**Hon. Senators:** Hear, hear!

[Translation]

## SENATORS' STATEMENTS

### NATIONAL PUBLIC SERVICE WEEK

**Hon. Marie-P. Poulin:** Honourable senators, this being National Public Service Week, I am taking this opportunity to pay tribute to the men and women who are at the service of Canada, whether in the national capital, in the regions of our country or abroad.

For over 25 years, I have witnessed on a daily basis the professionalism of these individuals and the quality of their work. Honourable senators, as you know, one only has to go abroad to hear well-deserved praise of our public servants.

I thank them on your behalf, honourable senators. I congratulate our government for having made the decision to go through with the necessary reforms so that Canada's public service will continue to evolve, innovate, adapt to a knowledge-based economy and society, and continue to help the government fulfil its responsibilities.

### CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION

BRITISH COLUMBIA—DECISION TO REFUSE CANADIAN  
BROADCASTING CORPORATION'S PROGRAMMING SIGNAL TO  
SERVICE FRANCOPHONE COMMUNITY

**Hon. Jean-Robert Gauthier:** Honourable senators, Canadian courts have already said, and I quote:

Language rights are neither negative nor passive; they can be exercised only when the means are provided.

The Canadian Broadcasting Corporation applied to the CRTC for an operating licence to serve the francophone and francophile populations of the Vancouver and Victoria area.

This would have been the second French radio station in Vancouver, where there are 18 English stations and three in a language other than Canada's two official languages. In Victoria, the capital of B.C., it would have been the first French-language service.

For 28 years now, francophones in Victoria have been asking for French-language service. It is hard to understand the CRTC's decision. The CBC has a mandate to broadcast its signal in French and English across the country and especially in each of the provincial capitals. Quebec City's 13,000 anglophones have received CBC Radio One since its inception.

It is hard to understand why the CRTC did not grant the frequency sought. The City of Victoria is the only provincial capital without CBC programming in French and English. In Vancouver, a second French-language station would have been welcomed.

The decision of the Canadian Radio-Television and Telecommunications Commission, the CRTC, must be reviewed.

In its latest report tabled three months ago with Her Excellency the Governor General in Council, entitled "Achieving a Better Balance," the CRTC promised new frequencies would be assigned in the public interest and in accordance with the objectives of the Broadcasting Act. It is difficult, if not impossible, to reconcile the objectives with the negative decision handed down following CRTC public notice 2001-63.

[English]

## ROUTINE PROCEEDINGS

### FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Lowell Murray**, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Tuesday, June 12, 2001

The Standing Senate Committee on National Finance has the honour to present its

#### SEVENTH REPORT

Your Committee, to which was referred Bill C-18, An Act to amend the Federal-Provincial Fiscal Arrangements Act, has, in obedience to the Order of Reference of Thursday, May 31, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

Lowell Murray  
Chairman

[ Senator Gauthier ]

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

[Translation]

## ESTIMATES, 2001-2002

### INTERIM REPORT OF NATIONAL FINANCE COMMITTEE TABLED

**Hon. Lowell Murray:** Honourable senators, I have the honour to table the eighth report of the Standing Senate Committee on National Finance on the 2001-2002 estimates.

[English]

## STUDY OF HEALTH CARE SYSTEM

### BUDGET AND REQUEST FOR AUTHORITY TO TRAVEL—REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

**Hon. Michael Kirby**, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Tuesday, June 12, 2001

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

#### SEVENTH REPORT

Your Committee, which was authorized by the Senate on March 1, 2001 to examine and report upon the state of the health care system in Canada, respectfully requests, that it be empowered to travel within Canada for the purpose of such study.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget application submitted was printed in the Journals of the Senate of April 24, 2001. On May 16, 2001, the Senate approved the release of \$5,000 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

MICHAEL KIRBY  
Chair



(For text of appendix, see today's Journals of the Senate, Appendix "A", p. 709.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kirby, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

**OFFICIAL LANGUAGES**

**FIFTH REPORT OF JOINT COMMITTEE TABLED**

**Hon. Shirley Maheu:** Honourable senators, I have the honour to table the fifth report of the Standing Joint Committee on Official Languages on the bilingual services offered by Air Canada.

[English]

**BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES—REPORT "A" OF JOINT COMMITTEE PRESENTED**

**Hon. Shirley Maheu,** Joint Chair of the Standing Joint Committee on Official Languages, presented the following report:

Tuesday, June 12, 2001

The Standing Joint Committee on Official Languages has the honour to present its

**FIFTH (A) REPORT**

Your committee which is authorized by section 88 of the Official Languages Act to review on a permanent basis the administration of the Act, any regulations and directives made under the Act and the report of the Commissioner of Official Languages, the President of the Treasury Board and the Minister of Canadian Heritage, respectfully requests that it be empowered to engage the services of such counsel and technical, clerical and other personnel as may be necessary for the purpose of such study.

Pursuant to Section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

**SHIRLEY MAHEU**  
*Joint Chair*

(For text of appendix, see today's Journals of the Senate, Appendix "B", p. 715.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Maheu, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE**

**BUDGET—REPORT OF FOREIGN AFFAIRS COMMITTEE PRESENTED**

**Hon. Peter A. Stollery,** Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Tuesday, June 12, 2001

The Standing Senate Committee on Foreign Affairs has the honour to present its

**FIFTH REPORT**

Your Committee was authorized by the Senate on March 1st, 2001 to examine and report on emerging political, social, economic and security developments in Russia and Ukraine; Canada's policy and interests in the region; and other related matters.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget application submitted was printed in the Journals of the Senate of April 25, 2001. On May 2nd, 2001, the Senate approved the release of \$62,340 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

**PETER STOLLERY**  
*Chair*

(For text of appendix, see today's Journals of the Senate, Appendix "C", p. 716.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stollery, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

**ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES**

**BUDGET AND REQUEST FOR AUTHORITY TO TRAVEL—REPORT OF COMMITTEE PRESENTED**

**Hon. Nicholas W. Taylor,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:



Tuesday, June 12, 2001

The Standing Senate Committee on Energy, the Environment, and Natural Resources has the honour to present its

#### SEVENTH REPORT

Your Committee, which was authorized by the Senate on March 1st, 2001, to examine such issues as may arise from time to time relating to energy, the environment and natural resources, respectfully requests, that it be empowered to travel outside Canada for the purpose of such study.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget application submitted was printed in the Journals of the Senate of March 29, 2001. On April 3, 2001, the Senate approved the release of \$162 820 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

NICHOLAS W. TAYLOR  
*Chair*

(For text of appendix, see today's Journals of the Senate, Appendix "D", p. 717.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Taylor, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

#### ILLEGAL DRUGS

##### BUDGET—REPORT OF SPECIAL COMMITTEE PRESENTED

**Hon. Pierre Claude Nolin,** Chair of the Special Committee on Illegal Drugs, presented the following report:

Tuesday, June 12, 2001

The Special Committee on Illegal Drugs has the honour to present its

#### SECOND REPORT

Your Committee was authorized by the Senate on March 15, 2001 to reassess Canada's anti-drug legislation and policies.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget

application submitted was printed in the *Journals of the Senate* of May 10, 2001. On May 16, 2001, the Senate approved the release of \$98,500 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

PIERRE CLAUDE NOLIN  
*Chair*

(For text of appendix, see today's Journals of the Senate, Appendix "E", p. 718.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Nolin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

#### ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, June 13, 2001, at 1:30 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

#### FARM CREDIT CORPORATION ACT

##### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-25, to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

● (1530)

**CANADA CORPORATIONS ACT**

## BILL TO AMEND—FIRST READING

**Hon. Norman K. Atkins** presented Bill S-30, to amend the Canada Corporations Act (corporations sole).

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Atkins, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

**CANADA-JAPAN INTER-PARLIAMENTARY GROUP**MEETING FROM APRIL 30 TO MAY 4, 2001—REPORT OF  
CANADIAN DELEGATION TABLED

**Hon. Marie-P. Poulin:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian delegation to the Canada-Japan Inter-Parliamentary Group on their 11th annual meeting, which was held from April 30 to May 4, 2001, in Ottawa and in Montreal.

[English]

**AGRICULTURE AND FORESTRY**STUDY ON PRESENT STATE AND FUTURE OF FORESTRY—NOTICE  
OF MOTION TO AUTHORIZE COMMITTEE TO TABLE  
FINAL REPORT WITH CLERK

**Hon. Leonard J. Gustafson:** Honourable senators, I give notice that on Wednesday next, June 13, 2001, I will move:

That the Standing Senate Committee on Agriculture and Forestry, which was authorized by the Senate on March 20, 2001, to receive, examine and report on the papers, evidence, and work accomplished by the committee during the Second Session of the Thirty-Sixth Parliament in relation to the present and future state of forestry, and to report by June 30, 2001, be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting, and that the report be deemed to have been tabled in the chamber.

**NELSON MANDELA**NOTICE OF MOTION TO DECLARE HONORARY  
CITIZEN OF CANADA

**Hon. Anne C. Cools:** Honourable senators, pursuant to rules 56(1) and 58(1), I give notice that one day hence I shall move:

That this house, recognizing the great moral leadership provided by Nelson Mandela of South Africa to all humanity, agree that he be declared an honorary citizen of Canada.

[Translation]

**SITUATION OF OFFICIAL LANGUAGES IN ONTARIO**

## EFFECT ON POST-SECONDARY TRAINING AND HEALTH CARE

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Thursday next, June 14, 2001, I shall call the attention of the Senate to current issues relating to official languages in Ontario, particularly post-secondary training and the lack of agreement between Ontario and Canada, and health services in French in Ontario.

[English]

**QUESTION PERIOD****NATIONAL DEFENCE**REPLACEMENT OF SEA KING HELICOPTERS—CHANGES  
TO BASIC VEHICLE REQUIREMENTS

**Hon. J. Michael Forrestall:** Honourable senators, I cannot pass up the opportunity to ask a few more brief questions of the Leader of the Government in the Senate, particularly as she has now had a good briefing.

Since 1968, there have been nine Sea King ditchings at sea due to loss of power. Of those, four, or almost half, have been in ISA plus 20 conditions and three of those four in Atlantic waters off Puerto Rico and Bermuda. Will the minister not admit, on the basis of these statistics readily available from the Department of National Defence, that ISA plus 20 is not an extreme temperature as the government seems to be maintaining?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, once again the honourable senator wants to do something that I thought we were to do in the fall, that being to examine the rules surrounding bids for the Maritime Helicopter Project.

I learned something very interesting in my briefing yesterday, that being that the maritime helicopters will not be primarily engaged in search and rescue. The maritime helicopters are primarily for defence purposes, and the Government of Canada has announced the purchase of 15 Cormorants, which will be the aircraft primarily used for search and rescue. The Cormorants, also known as EH-101s, are the planes that we have heard so much about in this chamber. They have all the required distance capacity.

It is very clear that search and rescue will be adequately cared for — except in emergency situations — by the planes for which contracts have been given and which we hope we will receive the first of in the year 2002.

#### REPLACEMENT OF SEA KING HELICOPTERS—SEA STATE OPERATION AND DITCHING REQUIREMENTS

**Hon. J. Michael Forrestall:** Honourable senators, I fail to see what relevance that has to the question I posed. Notwithstanding that, of the nine Sea King ditchings, five were successfully recovered from the water and returned to service. What is the rationale, then, for requiring the maritime helicopter to operate in sea states of between five and six but only requiring it to be capable of ditching safely in sea state three?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I cannot answer that kind of technical question on the floor of this chamber since I have had no advance notice of it. However, I am sure that the people who are highly skilled and knowledgeable about these aircraft will be able to do so at the briefing.

**Senator Forrestall:** Honourable senators, would the minister not agree that any search and rescue endeavour undertaken is indeed an emergency?

**Senator Carstairs:** Honourable senators, by its very nature, when we send a plane and a crew out on a search and rescue mission, it is deemed to be an emergency. In that regard, I totally agree with the honourable senator.

[Translation]

#### HERITAGE

##### CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION—DECISION ON FRANCOPHONE BROADCAST PROGRAMMING IN BRITISH COLUMBIA

**Hon. Jean-Robert Gauthier:** Honourable senators, my question is for the Leader of the Government in the Senate. The CBC requested a licence to operate from the CRTC to serve francophones and francophiles in Vancouver and Victoria. In Victoria, British Columbia's capital, there is no French-language service. Francophones in Victoria have been asking for

French-language service for 28 years. It is difficult to understand the CRTC's decision. Yet, in its recent report on French-language broadcasting services in a minority environment entitled "Achieving a better Balance," the CRTC promised to be more receptive and proactive regarding new French-language networks.

Could the minister ask her cabinet colleagues whether the Minister of Canadian Heritage intends to ask the CRTC to reconsider its decision to refuse to deliver a licence to the CBC to broadcast its French programming in Victoria, British Columbia's capital, and thus comply with the national policy, which provides that all provincial capitals must be served by the English and French networks *a mari usque ad mare*?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Senator Gauthier has posed an important question. The honourable senator did, in fact, give me an advance copy and I attempted to obtain the additional information, but it has not been delivered to me. I will continue my efforts to obtain the information relevant to the CRTC decision. Allow me to assure the honourable senator that I will take his representations to my colleagues in the cabinet.

[Translation]

#### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour of tabling in this house the delayed responses to two questions: the question by Senator Murray on May 29, 2001, concerning cabinet responsibility, and the question by Senator Oliver on May 10, 2001, concerning the efforts of government to establish a shipbuilding policy.

#### PRIME MINISTER'S OFFICE

##### REQUEST FOR STATEMENT ON COLLECTIVE CABINET RESPONSIBILITY

(Response to question raised by Hon. Lowell Murray on May 29, 2001)

The principle of the collective responsibility of Cabinet to the House of Commons is a convention of our Constitution.

The conventions of our Constitution are unwritten rules of constitutional action which are considered binding by those who participate in public life, but which — unlike laws — are not enforced by the courts.

Conventions are essentially political and the sanction for failure to respect them is also political rather than legal.



Sir Wilfrid Laurier set out the position in the House of Commons on March 18, 1903 (House of Commons Debates, pp. 132-33):

The gentlemen who are assembled at the Council board are not expected to be any more unanimous in their views because they sit at Council, than would be expected from any other body of men. It is in human nature to differ. It is in human nature, even for the best of friends; even for men professing the same views politically to differ and to differ materially on some points. But the Council sits for the purpose of reconciling these differences — the Council sits for the purpose of examining the situation and, having examined it, then to come to a solution, which solution then becomes a law to all those who choose to remain in the Cabinet. It would be a mere redundancy for me to affirm that the necessity for solidarity between the members of the same administration is absolute; that the moment a policy has been determined upon, then it becomes the duty of every member of that administration to support it and to support it in its entirety.

## INDUSTRY

### EFFORTS OF GOVERNMENT TO ESTABLISH SHIPBUILDING POLICY

*(Response to question raised by Hon. Donald H. Oliver on May 10, 2001)*

The Minister of Industry is currently reviewing the Report of the National Shipbuilding and Industrial Marine Partnership Project entitled "Breaking Through: The Canadian Shipbuilding Industry," copies of which were distributed to the Honourable Senators in April 2001. The recommendations contained in the Report are wide-ranging and complex and many deal with issues that are the responsibility of other federal ministers or other levels of government. The Minister plans to consult with his colleagues and provincial counterparts prior to announcing any new policy measures for this industry.

With respect to the EU's threat to launch a challenge against Korea at the WTO, federal officials are aware of, and have been tracking this dispute for some time. Specifically, the EU is alleging that Korea has provided subsidies to several Korean shipyards, contrary to WTO rules, that have adversely affected the EU shipbuilding industry in two market segments, namely containerhips and product and chemical tankers. Canadian officials are prepared to meet with Canada's shipbuilding industry to discuss the EU-Korean dispute when and if it moves to the WTO. In terms of recent developments, it has been announced that Korea and the EU have agreed to a consultation body to solve their shipbuilding dispute which

may have some beneficial spillover effects to the shipbuilding industry more generally.

[English]

## ORDERS OF THE DAY

### MOTOR VEHICLE TRANSPORT ACT, 1987

#### BILL TO AMEND—MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-3, to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts, and acquainting the Senate that they have passed this bill without amendment.

### CANADA BUSINESS CORPORATIONS ACT CANADA COOPERATIVES ACT

#### BILL TO AMEND—MOTION TO CONCUR WITH AMENDMENTS FROM COMMONS ADOPTED

The Senate proceeded to consideration of amendments by the House of Commons to Bill S-11, to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts:

1. *Title:* Replace the long title with the following:

"An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence"

2. *Page 136:* Clause 235 is deleted.

3. *Page 136:* Clause 236 is deleted.

4. *Page 137:* Clause 237 is deleted.

5. *Page 137:* Clause 238 is deleted.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I move:

That the Senate concur in the amendments made by the House of Commons to this Bill, without amendment; and

That a Message be sent to the House of Commons to acquaint that House accordingly.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Explain.

**Hon. Marcel Prud'homme:** Honourable senators, we made an amendment to the bill, which they rejected, and now the bill has come back to us without that amendment. Usually the reverse occurs. However, they rejected our amendment. Is that correct?

**The Hon. the Speaker:** Honourable senators, may I ask Senator Carstairs, the mover of this motion, to explain?

**Senator Carstairs:** Honourable senators, I will speak briefly to this motion, and then Senator Kirby, who was the individual who moved the amendment, will explain it in very simple terms.

This bill began in the Senate and that is why it is an "S" bill. During the process, we made some amendments to that bill. The other place has accepted most of the amendments that we have made. They have, in fact, rejected one amendment. It has now come back to us, and we are being asked, through this motion, to concur with the legislation as they passed it, minus the one amendment. Senator Kirby will explain the amendment to honourable senators.

**Senator Prud'homme:** Now that is clear.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Senator Kinsella:** We are asking for an explanation.

**The Hon. the Speaker:** Will the Honourable Senator Kirby provide senators with an explanation?

**Hon. Michael Kirby:** Honourable senators, Senator Kinsella and I were trying to avoid the calling of a vote until we had an opportunity to make some comments on the question before us.

To respond in more detail to the amendment that was rejected in the other place, I will begin with some background information.

The Standing Senate Committee on Banking, Trade and Commerce, for over a period of two or three years and at the request of the government, did an extensive study on corporate governance changes that ought to be made to the Canada Business Corporations Act. All of those amendments were put forward by the committee in 1998 or 1999, and they have been, in fact, incorporated in this bill.

In addition, the Banking Committee looked at a number of other issues, one of which led to the development of a system that is now called Modified Proportionate Liability, which is not simply a Canadian first, but a world first. Those recommendations are also contained in Bill S-3.

The bill began in the Senate not simply because of demands on House time, but because the technical expertise related to the nature of this bill rested with the Banking Committee. While the bill was before the Banking Committee, and I was the sponsor, a number of amendments of a technical nature were made. At that same time, I introduced my own, non-government amendment. It is that amendment that the House of Commons rejected.

With permission of honourable senators, I will explain the purpose of the amendment and why the government has rejected

it. I am disappointed they have turned it down for all the reasons that I outlined. Changing this bill has taken a long time, and given the fact that they have accepted all the other proposals from the Banking Committee, I am prepared to support the motion and, therefore, remove the amendment.

Honourable senators, it is worth a comment about what the amendment was designed to do and why it was turned down. The amendment was designed to treat minority shareholders of companies that previously were Crown corporations, specifically Air Canada and Canadian National Railways, in exactly the same way that the Canada Business Corporations Act, in its amended form, would treat minority shareholders. That amended form is now before the Senate.

To provide the layman's explanation, a number of changes in the Canada Business Corporations Act will allow, with the passage of this bill, minority shareholders to converse amongst themselves to reach agreements, provided they are independent — that they are not one and the same person. Two groups of 4 per cent shareholders, under the act that is being changed, will be able to communicate with each other to reach agreement. Historically, that has not been permitted. All of those changes in respect of minority shareholders and the so-called associated party rules were supported, and they came directly out of the Standing Senate Committee on Banking, Trade and Commerce.

It struck me that a company that had begun its life as a Crown corporation, and then had been privatized, should be treated in the same way as any other private sector Canada Business Corporations Act company.

• (1550)

My amendment proposed to do a simple thing — to give to the minority shareholders of Air Canada and Canadian National the same powers of association that will exist with respect to any other Canada Business Corporations Act company. I did not include in my amendments Petro-Canada and Nordion simply because Bill C-3, which is working its way toward us from the other place, deals with the corporate governance provisions for those two corporations. I therefore limited my amendments to Canadian National and Air Canada, with the intention of dealing with the others when Bill C-3 arrives in the Senate.

The policy officials in the Department of Industry, whose bill this was, agreed — and I am trying not to put words in anyone's mouth — that my proposal was exactly consistent with the thrust of their policy. However, the Department of Transport — with whom I did not consult because I suspected that I understood their point of view — opposed the changes for two quite different reasons. They were opposed to the change with respect to Canadian National on the grounds that it would allow, for example, 10 per cent of foreign shareholders to vote together to get the kind of board they wanted and so on.



My view was very simple. The Canadian National Act requires that the head office be in Canada. Currently, over 70 per cent of the shares in Canadian National are foreign-owned. It did strike me that, even if a group of foreign shareholders did by some means or other get control of Canadian National, it would be difficult for them to rip up the tracks and somehow take the company out of the country. It is still my view that one ought not to worry about that problem. The officials in the Department of Transport do not agree with me.

Regarding Air Canada — and I will try to be as polite as I can in expressing my view, given the way Air Canada has treated consumers in the last year and a half and given the way it has treated its employees, by announcing 3,500 layoffs on December 22. I have spoken with chief executive officers and board members of many companies since that happened, and I could find no one who would have agreed to making that kind of announcement on December 22.

Given the insensitivity of Air Canada's board and management toward consumers and employees, I felt we should do everything in our power to prevent them from entrenching themselves. Any additional powers granted to minority shareholders would be a good thing in that regard, particularly as the powers proposed are the same as those found in any other major corporation in our country.

That being the case, the officials in the Department of Transport have come to the view that the amendment is inconsistent with the 15 per cent rule to which they agreed at the time of the Air Canada bill a year and a half ago.

I understand that point of view. Indeed, I would be willing to say that a significant element in my motivation was to find a way around the 15 per cent rule. I publicly went on record as being opposed to the 15 per cent rule at the time of the Air Canada bill. Entrenching the current management board, given their performance, does not strike me as good public policy nor as good business policy.

Nevertheless, Department of Transport officials have decided that this amendment would violate the nature of the 15 per cent agreement that was reached with the company and subsequently put into legislation. Therefore, they have insisted that the amendment come out.

My view, honourable senators, is quite simple. I continue to believe, in both cases, that this is the right public policy and the right business policy. I also believe that the Canada Business Corporations Act has been kicking around for many years. It would be unfair to the rest of the business community not to deal with this issue now. The bill does contain a raft of amendments, all of which emanated from the Standing Senate Committee on Banking, Trade and Commerce. There is no question that the views of this chamber and the views of the Senate Banking Committee in particular are adequately reflected in this bill.

Though I am quite disappointed about the entrenching of the board of Air Canada, I am nevertheless prepared to support this motion because, if nothing else, I have at least made a point. That is why I wanted the opportunity to speak today, rather than letting the bill go ahead without comment.

**Senator Prud'homme:** Honourable senators, Senator Kirby is known to be a highly competent, dutiful, and able chairman, with much more experience than I on these matters, having had the privilege of working on Privy Council. If the honourable senator felt so strongly as to put this amendment, perhaps the time has come to say to the other chamber — where I sat for 30 years — that indeed we insist on our amendment. We could return the bill. Eventually, we must choose one bill or another.

After the explanation so ably put to us by Senator Kirby, perhaps some members would like to continue on this line. It is a suggestion that I make; I am not pushing. At some point, we need to say, "Wait a minute. This matter has been thoroughly studied." I do not know if the House of Commons has studied the matter. Perhaps we should return this bill — which would be a first-ever occurrence — and insist on our amendment, especially given the clear and intelligent explanation given by Senator Kirby.

**Senator Kirby:** I appreciate Senator Prud'homme's complimentary remarks. I am sympathetic to the spirit of his position. As I indicated, however, this is not the right issue on which to take a stand, in my view. It is important to proceed with the bill.

Let me be clear. There is other legislation coming down the road on which it would be far more appropriate to take that kind of stand.

**Hon. Donald H. Oliver:** My question is for Senator Kirby. In the course of explaining why he made the amendments respecting Crown corporations, he referred to four of them: Nordion, Petro-Canada, CN and Air Canada. One of his arguments in relation to CN is that 70 per cent of the shares are owned outside of Canada.

In looking at broad public policy considerations, would Senator Kirby not also see a number of other non-Crown corporations in Canada that are more widely held outside of Canada than inside? Should the same general public policy rules that he advocates apply to certain financial service companies that are widely held but that do not have the same rights and privileges, such as life companies and banks?

**Senator Kirby:** We are perhaps getting into the area of the financial services legislation, which I believe is coming before us. The issue raised by Senator Oliver is directly contained in that bill. I am not sure that the question relates to this bill directly.



As Senator Oliver knows, the Senate Banking Committee ultimately advocated an increase from the existing 10 per cent to 20 per cent and possibly 30 per cent, if one takes into account non-voting shares and the ownership of major chartered banks. Those proposals are contained in the bill that has just been studied by the Senate Banking Committee.

The difference is that financial institutions, because of the nature of their economic impact on the country, are in a different category. This is a personal view of mine, but it has also been expressed in testimony before the Banking Committee, not by the current Governor of the Bank of Canada, as the issue has not come up, but by at least the two previous Governors of the Bank of Canada, Mr. Crowe and Mr. Thiessen. They certainly expressed the view that it would be a mistake to have major Canadian financial institutions controlled outside the country. That was their view in terms of macroeconomic management terms.

I do think that major financial institutions are in a different category of business than an airline or railroad, for example, or, for that matter, gasoline companies.

**Hon. Pierre Claude Nolin:** Honourable senators, I have a lot of respect for my honourable friend. They may have been his amendments, but when the bill left this house, it was our bill. Now he must convince us that we should change our position. The more I listen to him, the more I am convinced that we were right to do what we did.

Does the honourable senator think that the scrutiny given to the bill in the other place, and further, to reject or delete what we call his amendments, was a proper scrutiny? If it was proper, why was it proper? I am not convinced that we should do what he has suggested we should do.

**Senator Kirby:** It is difficult for me to comment on the scrutiny in committee, but let me tell my honourable friend the views of officials.

On the Air Canada case, which is what started me down this road, I concede that my amendments could put in jeopardy the 15 per cent rule. If a group of large shareholders were sufficiently creative, it would put in jeopardy the 15 per cent rule. The 15 per cent rule reads that no one can own or vote a block bigger than 15 per cent of the equity of the company.

That 15 per cent number was passed into law in December of 1999. At the time, there was a discussion about whether the number, which had been 10, should go to 15, 20 or 25. It is also true the 15 per cent rule was also included in the government agreement with Air Canada at the time Air Canada took over Canadian and avoided the bankruptcy of Canadian. One can make a case that doing what I tried to do — and this is why it was a personal amendment and not a government amendment —

is clearly in violation of that, or it could, in the hands of the right creative people, be in violation of that. I did not happen to like the agreement in the first place, which is why I did what I did. That is the reason I am willing to concede on this point and say that it makes sense to back off and let it go.

**Senator Kinsella:** Honourable senators, as I am trying to follow this debate, it seems to me that the honourable senator is maintaining the principle that he argued from, which was embraced by this chamber. Am I correct?

**Senator Kirby:** I am not backing off the principle at all. I am explaining, as I think I did a minute ago to Senator Nolin, why I am prepared to not insist on it. I concede that a creative group of shareholders could violate the original 15 per cent agreement that was part of the Air Canada deal. I understand that.

By the way, that was my motivation. Do not make any mistake about it. I did not like the 15 per cent rule in the first place. I understand that it is difficult for an individual to make what amounts to a private member's amendment to a government bill that is designed to get around an earlier government policy decision, but that is exactly what I was trying to do.

**The Hon. the Speaker:** I must draw to the attention of the Senate that the 15-minute time period of Senator Kirby has expired.

Is the honourable senator asking for leave to continue?

**Senator Kirby:** Yes.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Kinsella:** Honourable senators, if one were able to determine upon close examination that the concerns expressed by officials in the Ministry of Transport did not obviate the bill functioning very well and with no adverse impact, would the honourable senator not agree that he should maintain his principle?

**Senator Kirby:** The close examination will not show that. Let me be very clear. I did not like the 15 per cent rule. I have never liked those kinds of minority rules because they entrench management to the board. For a long time I have been against those kinds of rules. My position has nothing to do with Air Canada. I am particularly offended by the Air Canada case because of its performance and the way it fired employees, and because the board, the week after signing an agreement, was so afraid of losing its position that it put in place a poison pill and a variety of other measures. I am not a fan of the management of Air Canada. To be perfectly blunt, I thought this was an interesting way of trying to get around the problem.

There is no question that officials are absolutely correct when they say that if the amendment is allowed to go through, and if it is supported by the government, it would violate an agreement the government signed with Air Canada in December 1999. That is precisely what I designed it to do. To be honest, I thought people might not notice. It was in a big, complicated bill, and I thought it just might not get noticed. My principle is that I do not like the 15 per cent rule. I spoke against the 15 per cent rule at the time of the Air Canada bill. I was trying to get in one way what I did not get the other way. I concede that. Therefore, it seems to me this is the wrong issue to insist upon, although I still do not like the policy.

**Hon. David Tkachuk:** Honourable senators, there was another matter that the honourable senator did not speak about. The title is being changed again to read "in consequence."

**Senator Kirby:** I did not see that. If it is, that is strictly a legal matter. I do not know the reason for that change.

**Senator Tkachuk:** This happened in committee. Senator Kirby indicated that officials from the Department of Justice phoned earlier and said that the words "in consequence" needed to be dropped, and we changed the title. I asked why, and Senator Kirby said, "I have not the foggiest notion." I will ask, if the foggiest notion still holds, why they want it back. I do not understand why they want it back.

**Senator Kirby:** In order to make sure my amendments were technically correct, I had them vetted by the Department of Justice. The Department of Justice at the time had sent me one or two technical word changes, which I made. They also said to me at the time, "You need to change the title of the act." I did not bother to get into why I needed to change the title of the act because I did not pay any attention to it. I had not looked at the amendments before. Is my honourable friend saying that the amendments now go back to what the original title was?

**Senator Tkachuk:** Yes.

• (1610)

**Senator Kirby:** Why one needed to change the act because of those amendments I put forward, I have no idea. I suppose the answer is that the act needed to have a different title with those amendments than it does without them.

**Senator Carstairs:** Since Senator Kirby was deleting acts that have now been included, is it not therefore necessary that the words "in consequence" be in the title?

**Senator Kirby:** That is a sort of legal question I make a point of never trying to understand. I do not know. In any event, the sequence is clear. There was a title. When I introduced my amendments, which included changing the Air Canada Act and the CN Act, the Justice Department said the title had to be changed. With those amendments removed, the Justice

Department said we needed to go back to the original title. It made sense to me when they said the original title was the right title.

**The Hon. the Speaker:** Just to keep the debate orderly, Senator Tkachuk, there is one other intervenor with a comment or question before I go to you on your main presentation. However, you will also want to accept questions and comments. When you are completed, I will go to Senator Gauthier and then back to you for your speech.

**Hon. Jean-Robert Gauthier:** Honourable senators, I find this discussion very interesting, if not challenging. To my recollection, we passed the bill with Senator Kirby's amendment. We sent it to the House of Commons. It reviewed the bill, took an amendment out, changed the bill, sent it back to us. In my view, we have a problem and a precedent here that I want His Honour to settle: Can we or can we not, at this time, adopt the senator's proposal to withdraw his amendment, which was part of our bill originally? I think it is too late.

**Senator Kirby:** The motion that is before the house is that we accept the bill, as now amended by the House of Commons, which deletes the amendment that I put in. We can certainly do that. We have often done that. That is the issue that is before the chamber, and there is no procedural reason, in my view, for not accepting the motion of the Leader of the Government.

**Hon. John Lynch-Staunton (Leader of the Opposition):** I have a question for Senator Kirby. I gather from the discussion that we are in favour of the amendment and not in favour of the House telling us that it should be dropped. It was our amendment. If we are still in favour of it, we can send the bill back to the House of Commons and say we did not agree with it and maintain the amendment. It is as simple as that.

**The Hon. the Speaker:** Senator Gauthier has raised a question I will try to answer because it was put to me in terms of the procedures before us.

As I understand the motion of Senator Carstairs, it is to accept the bill as returned to us with amendments, and that is entirely in order within our procedure. It will be for a majority of voices or votes in this chamber to, in the end, determine what we do with Senator Carstairs' motion.

**Senator Kinsella:** My question to Senator Kirby is: Does the honourable senator not think it would be at least tactically advantageous, given the desire to maintain one's principles, for this house to insist upon the amendments that the Senate has adopted? If the pressure from the government is that it wants this bill passed before the summer break, we could send it to the House of Commons with the message that we are insisting on our amendment. We have leverage; the House wants to recess and the government wants the bill. Therefore, they will adopt our motion.



**Senator Kirby:** I understand the logic of the honourable senator's argument. The reason I am not doing that that this is a major piece of government legislation of interest to a large number of corporate entities around the country. I do not want to run the risk of delaying it now. It has been around for too long.

I must distinguish between an amendment that really did originate with me as opposed to something the committee held hearings on and, ultimately, decided on its own merits. I do not think we should insist on it.

**Senator Prud'homme:** Honourable senators, if we abide by what the honourable senator is proposing so kindly — I know the importance of the bill — surely, the other chamber should be made aware of our displeasure. That is the least I would ask the house leader to put to them, that it is reluctantly that we accept, for all kinds of reasons, the best one being the last one expressed. In view of the importance, we will not insist. I will repeat: The honourable senator has made a choice intelligently, and it may not be the time to show our real displeasure by simply saying take it back. I must say that it is a strong argument with me.

Second, and I do not want to make people impatient, but whoever is in charge of the bill in the House of Commons should definitely be made aware of our strong reluctance to give in to something that we felt was important enough to be sent to them.

**Senator Nolin:** You can table a private bill.

**The Hon. the Speaker:** Senator Kirby, do you wish to respond?

**Senator Kirby:** I will certainly make it very clear to them, but it still does not change my position.

**Senator Nolin:** Propose a private bill.

**Senator Tkachuk:** Honourable senators, just so you understand, there were a number of amendments. There were those amendments that originated with the Standing Senate Committee on Banking, Trade and Commerce as a result of testimony. That was one group of amendments.

Then there were technical amendments that the minister wrote to Senator Kolber on, of which we all received copies even though the letter was marked "top secret," requesting our chairman and the committee to consider. That was on March 29, 2001.

On April 4 we considered those amendments, of which Senator Kirby had one of his own, along with all the technical amendments that the government wanted. Senator Meighen raised the point that perhaps we are moving too quickly, but were assured again by the government side that the amendments were technical. We knew at the time that we should not be moving so quickly. Senator Meighen upon raising the matter in committee, said the following about the new clause 160.1 which Minister Tobin wanted:

**Senator Meighen:** I have no particular objection. I take the assurance at face value that these are technical amendments. However, there is a bit of an explanation given in the annex in the letter to you, Mr. Chairman. Could that form part of the record?

**The Chairman:** Sure.

**Senator Meighen:** So the document that I have here entitled "Secret" will form part of our record.

**The Chairman:** Sure.

That document is this letter asking us to move the technical amendments. Amongst those technical amendments is Senator Kirby's amendment, which was not a government amendment. However, I kind of like his amendment.

• (1620)

#### MOTION IN AMENDMENT

**Hon. David Tkachuk:** Therefore, honourable senators, I move that this matter be referred to the Standing Senate Committee on Banking, Trade and Commerce.

**The Hon. the Speaker:** Does any other honourable senator wish to speak? Senator Tkachuk has made a motion.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the way in which this process has evolved this afternoon is very interesting. Let us be clear. We amend a lot of House of Commons bills. It is not, therefore, inappropriate in this case, since the bill originated here, for them to amend our bill, having given it careful consideration. I think that point must be made here.

The other point that I think is very important is that Senator Kirby, by his own admission, was being mischievous on this particular piece of legislation — mischievous, in that he was attempting, via an amendment to this bill, to in fact refute a section in the Air Canada legislation called the 15 per cent rule.

**Senator Nolin:** We agreed to that.

**Senator Carstairs:** We did agree to the 15 per cent rule. Therefore, one must examine why we are now saying, via proposed legislation, that we really did not agree with the 15 per cent rule — because that is in fact what Senator Kirby is saying to us this afternoon, that he did not agree to it in the original act so he decided to be mischievous and try to get his amendment via the proposed legislation that is in front of us.

Honourable senators, this is a very important bill, a very substantive piece of proposed legislation, one that is long overdue and that I hope we can give speedy passage to.



There is also a fundamental principle involved here. The companies that were exempted by Senator Kirby in this proposed amendment, Air Canada and CN, I would maintain, despite his arguments about recent delivery service problems that he perceives with Air Canada, are very special companies in this country. They are not ordinary companies by any stretch of the imagination. While I think that shareholders' rights should be the same for investors in all federal corporations, I am equally sure that we would also agree that all corporations are not created equal and that special circumstances require special considerations. I believe firmly that Air Canada and CN are indeed special. They physically bind this country and its inhabitants, in ways that are both unique and historical. It is certainly valid public policy that share ownership of these corporations be widely distributed so that no small group of individuals takes effective control of these essential services. That is what the 15 per cent rule was all about. That is what we should maintain, and that is why, quite frankly, we should accept the graciousness of what Senator Kirby has said this afternoon, that he will not insist on his amendments, that he will not insist on his mischievous little activity.

**Hon. Roch Bolduc:** Do I understand that with convulsive and diplomatic words the leader said that her colleague is intellectually dishonest?

**Senator Carstairs:** Honourable senators, I would never say that of any member of this chamber, including colleagues on both sides, and certainly not of a colleague I went to university with. However, having gone to university with him, I do perhaps understand his mischievous element.

**Hon. Michael Kirby:** Honourable senators, in place of a question to my leader, I simply wish to make the observation that since I am a long-time fan of musical comedy, and I particularly liked the musical *Oliver*, I have always thought that, rather than being referred to as mischievous the "Artful Dodger" was a much better label.

**Senator Carstairs:** I would be quite happy in the future to refer to my honourable colleague in that manner.

**Hon. Marcel Prud'homme:** May I say, I do not apologize for having started that debate.

**The Hon. the Speaker:** Honourable senators, we have before us a motion in amendment, to refer Bill S-11 back to committee. I will put the motion in amendment.

It is moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Nolin, that the amendments proposed by the House of Commons to Bill S-11 be not now concurred in but that they be referred to the Standing Senate Committee on Banking, Trade and Commerce.

Honourable senators, is it your pleasure, to adopt the motion in amendment?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker:** Will those honourable senators in favour of the motion in amendment please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those honourable senators who are opposed to the motion in amendment please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "nays" have it.

I declare the motion lost, on division.

We are now at the main motion. If no other senator wishes to speak, it was moved by the Honourable Senator Carstairs that the Senate concur in the amendments made by the House of Commons.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**Senator Prud'homme:** On division.

Motion agreed to, on division.

## CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL

THIRD READING—DEBATE CONTINUED—POINT OF  
ORDER—SPEAKER'S RULING

On the order:

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Milne, for the third reading of Bill C-4, to establish a foundation to fund sustainable development technology. (*Speaker's Ruling*).

**The Hon. the Speaker:** Yesterday, when debate was to resume on the third reading of Bill C-4, a bill establishing a foundation to fund sustainable development technology, Senator Lynch-Staunton raised a point of order to challenge the proceedings.

In making his case, the Leader of the Opposition spoke to two issues. The first had to do with the fact that the government has already appropriated the monies intended to support the work of the foundation through the estimates. The second argument was based on the rule of anticipation.

[English]

The senator claimed that according to the testimony of the Minister of Natural Resources before the Standing Senate Committee on Energy, the Environment and Natural Resources funds that were originally earmarked for the foundation in Bill C-46, the predecessor to Bill C-4 in the last Parliament, were set aside in the 2000-01 budget. When Bill C-46 died on the Order Paper last year, the government proceeded to establish a non-profit corporation to hold these funds or a portion of them so that they would not lapse at the end of the fiscal year. These monies are to be transferred to the foundation once Bill C-4 is enacted.

In his view, the government's action was irregular and possibly even illegal. To support this case, the senator cited comments made by the acting Auditor General during her testimony before the committee. Should Bill C-4 be adopted under these circumstances, the senator claimed, the Senate would be sanctioning an aspect of the government that runs completely contrary to modern parliamentary democracy. In particular, he argued, it bypasses the House of Commons and the exercise of its authority over supply. To support this contention, the senator referred to several parliamentary authorities, including Erskine May, Beauchesne, Marleau and Monpetit.

[Translation]

• (1630)

With respect to the second matter, the rule of anticipation, Senator Lynch-Staunton argued that the establishment of the non-profit corporation presupposed the passage of Bill C-4 and, thus, clearly violated the rule of anticipation. Such an approach to legislation, the senator noted, could pose some serious problems and financial accounting irregularities if it should happen that Bill C-4 not pass.

[English]

The senator was careful to stress that he was not asking for a ruling from me as Speaker on the administrative practices of the government. Instead, he insisted that the Senate had only one choice: "to return this bill to its sponsor in order that the government first have the proper funding in place through the proper budgetary procedures."

Once Senator Lynch-Staunton had argued his case, several other senators then intervened. Senator Robichaud challenged the right to raise a point of order since it had not been raised at the earliest opportunity. The Deputy Leader of the Government noted, moreover, that the funds in question were approved in the Estimates adopted by both Houses of Parliament. As he put it:

The government determined that the best means of furthering the objectives for which Parliament —

— had —

— appropriated funds would be to transfer funds to a not-for-profit corporation established under Part II of the Canada Corporations Act 1970.

Senator Kinsella then spoke to reject any suggestion that it was too late to raise a point of order, a position subsequently reiterated by Senator Lynch-Staunton. If the Senate, according to Senator Kinsella, determines that there is a procedural problem with a bill prior to its final passage, it has a right to take remedial action. In this case, the procedural issue relates to the oversight by Parliament of government appropriations, particularly if Bill C-4 does not pass.

The Leader of the Government, Senator Carstairs, then spoke to deny that a valid point that had been raised because nothing in the bill contravenes the *Rules of the Senate*. Indeed, it is her position that:

The rules were followed. They were followed in the chamber. They were followed in the committee. They are now being followed...at third reading of this bill. The government received approval for this money...

Whatever dispute there might be about certain processes followed by the government with respect to Bill C-4, it was undeniable, according to the Senator Carstairs, that the bill was reported by the committee to the Senate without amendment.

Finally, Senator Taylor provided some background information on some matters already raised in previous exchanges, particularly with respect to the testimony heard by the standing committee.

I want to thank all honourable senators for their participation in the debate on the point of order. I have paid special attention to the arguments made in respect to the role I might have in assessing this point of order and the steps that were proposed to deal with it by the Senate.

Senator Lynch-Staunton has made it clear that he does not want a ruling from me addressing the administrative practices of the government. This is just as well because I have no authority as Speaker to rule on them. Similarly, I have no authority to rule that the Senate return the bill to the other place so that the so-called proper budgetary process can be followed to fund the Sustainable Development Foundation established through Bill C-4. Such a decision can only be taken by the Senate itself. As Speaker, I cannot rule on what was done or not done in the other place. All I can do is rule on what transpires here in the Senate.

In this regard, the position of the Leader of the Government in the Senate seems particularly relevant. In all the arguments that were presented yesterday, there was no indication that any specific rule or practice of the Senate was breached. Consequently, there is nothing on which to make a ruling that would sustain the point of order.



As to the rule of anticipation raised by the Leader of the Opposition, I would observe that his comments revolve around the funding issue for the foundation and the presumption allegedly assumed by the government that Bill C-4 would pass the Senate and the other place substantially unchanged.

Whatever one might say or think about such an assumption, it does not properly involve the rule of anticipation. This rule in fact deals with a conflict that can arise when the Senate takes decisive action on one of two or more items standing on the Order Paper that deal with substantially the same subject in the same way. Traditionally the Senate, like other parliamentary bodies, imposes on itself a restriction of deciding the same question more than once in the same session. The rule of anticipation supposes that the Senate will give priority to the item that is regarded more effective procedurally. This is my understanding of the rule of anticipation, and it does not apply in this case.

For these reasons, it is my ruling that there is no point of order.

There still remains one matter on which I feel I should comment, and that is the question of "first opportunity" with respect to raising a point of order. As it relates to a bill still before the Senate, there is no time limit on raising a point of order at any time the bill is called for debate following first reading. The notion of "first opportunity" does not really apply to points of order; it is, rather, a qualification that pertains to questions of privilege and the "fast-track" process procedures outlined in rule 43. Thus, it was perfectly in order for the Leader of the Opposition to raise this point of order, whatever the outcome of the ruling.

Debate on the motion for third reading of Bill C-4 can now continue.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I rise to contribute to the discussion that took place on June 7, 2001, following the third reading comments by Senator Sibbeston, for which I thank him.

I believe I speak for most honourable senators when I say that the government should be commended for what it wants to accomplish with Bill C-4. For many years, the government has integrated the concept of sustainable development into every aspect of its planning, policies and programs. The Brundtland definition captures this concept in clear and simple terms: "development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

Incorporating sustainable development into how we do business requires new ideas, new knowledge and new technologies. Our capacity to innovate is key. It is critical for our future success.

Bill C-4 would establish the Canada Foundation for Sustainable Development Technology. The initial focus of the foundation will be on helping develop and demonstrate climate change and clean air technologies because these are two urgent environmental challenges we face as we begin the 21st century. After considering numerous options for managing its \$100-million Budget 2000 commitment, the government chose to table legislation for approval by Parliament as a means of more actively engaging Parliament in the establishment of an arm's-length organization.

Now that I have provided some background, honourable senators, let me explain exactly what Bill C-4 proposes. When passed by Parliament, it will create a foundation to fund sustainable development technologies. The funding is not dealt with in this bill — it is a separate matter entirely. The proposed legislation will establish a foundation that will follow many provisions of the Canada Business Corporations Act.

The governance of the foundation will consist of a 15-person board of directors and 15 members of the foundation. The Governor in Council will appoint the chairperson, six directors of the board and seven of the members who will play a role much like the shareholders of a corporation.

As honourable senators know, the foundation will operate at arm's length from the government. This will provide a new vehicle for engaging Canadians directly and fostering the long-term collaboration in the form of partnerships. Working together is essential to tackle the sustainable development challenge. The foundation will operate close to the private sector and will enhance its engagement in these tough issues of climate change and clean air.

That is the basic purpose of Bill C-4. The \$100 million that the government announced in Budget 2000 for sustainable development technologies is not, and I repeat not, a provision of this bill.

The government was satisfied that this private sector corporation had goals parallel to those of the proposed legislated foundation. The continuation provisions of Bill C-4 ensure that all assets and liabilities of the private sector corporation will be transferred to the legislated foundation. Should there be any inconsistency or conflict between the bylaws of the private corporation and the terms and conditions set out in Bill C-4, the new provisions ensure that the legislation as approved by Parliament will prevail.

• (1640)

Allow me to address some of the contentious issues that have arisen in the Senate in respect of Bill C-4. For the record, I will clarify two statements contained in the observations of the Standing Senate Committee on Energy, the Environment and Natural Resources when it reported the bill, without amendment, to the Senate on June 6, 2001.



First, the government did not “create” a private-sector corporation. When the federal election was called last fall and the previous bill died on the Order Paper, it became apparent that the creation of a foundation through the adoption of legislation within the fiscal year 2000-01 would be unlikely. The government developed a contingency plan to fulfil its budget commitments. It entered into a contractual agreement with a not-for-profit corporation established by the private sector. This corporation has objectives and a governance structure similar to those of the proposed Canada foundation for sustainable development technology. This is an important distinction that I want to make clear to honourable senators.

Second, and more important, the government did not at any point do anything without the prior approval of Parliament. In order to meet its objective of creating a sustainable development technology fund, the government entered into an agreement for this purpose with the not-for-profit private-sector corporation prior to the end of the fiscal year, March 31, 2001.

That being said, some honourable senators have voiced concerns about certain accounting and administrative practices used by the government in respect of the proposed Canada foundation for sustainable development technology and other arm's-length organizations. Your concerns have been noted and I will raise them with my cabinet colleagues. I have already raised them with the Minister of Natural Resources.

The Minister of Natural Resources appeared twice before the Senate committee to discuss other aspects of Bill C-4 — the role of the Auditor General of Canada, access to information, accountability and transparency.

The Auditor General and some honourable senators are concerned that the foundation is not directly accountable to the Auditor General. This is indeed the case for such arm's-length organizations. However, the proposed legislation specifies that the foundation will be properly audited by an independent professional auditor and will operate in accordance with generally accepted accounting principles. The Auditor General will review the procedures for channelling funds through Environment Canada and Natural Resources Canada. She will review the terms of the funding agreement between the government and the foundation.

With respect to assessing the “value for money” performance of the foundation, the funding agreement also allows the government to conduct separate interim and final evaluations. There may be avenues the government can investigate to allow a more active role for the Auditor General in respect of the foundation's operations.

During the course of Parliament's consideration of Bill C-4, the Auditor General and some honourable senators have made their views known concerning a broader role and mandate for the Auditor General in respect of the government's creation of foundations and other organizations that are not under the direct scrutiny of Parliament. The Auditor General and honourable

senators will have another opportunity to raise this issue when the Auditor General tables her audit report later this year. I welcome that intervention.

Concerns have been raised about Bill C-4's provision for access to information. Strictly speaking, the foundation will not be subject to access to information regulations, which apply to federal government departments and agencies. This is the case for all other foundations. However, any Canadian will be able to attend the foundation's annual meeting or receive a copy of its annual report, which will include the financial audit by the independent auditing firm. The public will have ongoing access to corporate documents under some of the Canada Business Corporations Act provisions incorporated in Bill C-4. In addition, information will be available regarding the evaluation of results achieved and for the proposals being funded. Abstracts of projects that receive funding will be posted on the foundation's Web site. At any time, Parliamentary committees can call representatives of the foundation as witnesses.

Of course, some information will not be disclosed to the public because of commercial confidentiality, or intellectual property, or the arm's-length nature of the entity. Much of the foundation's documentation will be highly technical, describing the scientific details of leading-edge technology.

Honourable senators, I will now address the issue of transparency. More specifically, if the proposed foundation is created, what will prevent the public interest from being overturned in favour of participating corporate interests? The funding agreement between the government and the foundation is the key. It will specify criteria regarding the kinds of projects the foundation will support.

These criteria include: responsiveness to the key objectives of the sustainable development technology fund; technological merit, as determined through scientific and engineering advice by a project review committee; potential to achieve an innovation in technology; plan for dissemination of the results; leverage; potential environmental, social and economic impacts; and benefits to Canada. It would be difficult for corporate interests to co-opt the public interests of the foundation, when such criteria for funding projects must be met.

If the foundation is dissolved, Bill C-4's provisions for distribution of money to the recipients of project funding from the foundation are consistent with the rules and requirements of Treasury Board procedures. From a legal standpoint, if such money were returned to the Consolidated Revenue Fund, the foundation would not be an organization at arm's length from the government. Stewardship and public trust are fundamental responsibilities that Parliament and all Canadians can and should expect from organizations such as the proposed Canada foundation for sustainable development technology. Bill C-4 addresses these important expectations through its main features — a clear purpose, provisions for reporting, evaluation and tabling of information, and auditing.

Honourable senators, the government is eager to proceed with the critically important job of supporting the many creative, innovative players in Canada in the field of sustainable development technologies for climate change and air quality. Bill C-4 will help to accomplish this objective.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Did I understand the honourable senator correctly when she said that the government had no role to play, whatsoever, in the creation of the not-for-profit company that currently holds government funds?

**Senator Carstairs:** The private-sector corporation was established as its own entity. After its establishment, the government provided the corporation with a grant of, in this case, \$100 million.

**Senator Lynch-Staunton:** Did the government have anything to do with the establishment of the corporation?

**Senator Carstairs:** No, it is my understanding that the corporation was formed under proper corporation procedures.

**Senator Lynch-Staunton:** Honourable senators, I draw attention to the testimony of Minister Goodale to the Standing Senate Committee on Energy, the Environment and Natural Resources on May 5, 2001, where, in response to that same question, he stated, in part, as follows:

We followed a technique that is completely consistent with the legal principles of both the government and the Canada Corporations Act, Part II. There are precedents for other foundations being handled in this way during their early start-up phase, so we did not break new ground. We also placed certain restrictions on this "holding company." For example, it is restricted in reviewing and actually funding proposals until certain periods of time, and so forth. We wanted to ensure that it did not go too far in its holding company capacity. We contracted people with considerable private sector expertise.

Honourable senators, he then proceeded to give the names of the four people who incorporated the company and who are to be the directors. The government was not only knowledgeable of the creation of the company, but also helped to create it and named the directors. If that is not sufficient evidence of the governments involvement, the bylaws of the company are, for the most part, lifted from Bill C-4 word for word. The number of directors, how the auditor is named and other fundamental regulations of the company are copied from the bill.

Whoever informed the minister that the government had clean hands on this one misdirected her. The government was actively involved, initiated the idea, solicited the directors, had them seek incorporation, gave them the money and told them to be careful

in how they used it, and even wrote the bylaws governing the corporation. If that is not an affront to Parliament, then I do not know what is an affront.

• (1650)

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I, too, have a question for the minister. She mentioned that the private corporation has \$100 million: is that correct?

**Senator Carstairs:** That is my understanding.

**Senator Kinsella:** Was that paid in one instalment or was it paid in several? The reason I ask this question of the minister is because it was my understanding that the corporation received \$50 million in two \$25-million instalments. Perhaps other honourable senators are confused as to how much money the corporation received.

**Senator Carstairs:** Honourable senators, the honourable senator asks a very technical question with respect to whether the money received by the corporation was delivered in one cheque or two cheques and how much was in each cheque. I do not have that information in front of me. However, I will obtain that information for the honourable senator by tomorrow.

**Senator Kinsella:** Depending on the capital, whether it is \$50 million or \$100 million, how much interest has the private corporation earned on that money?

**Senator Carstairs:** Honourable senators, again, that is a very technical question to which I do not have an answer. If it has earned any interest, and I do not know that it has, I will try to obtain that figure for the honourable senator.

**Senator Kinsella:** Honourable senators, in the technique that was utilized, monies were taken out of the Consolidated Revenue Fund and given to a private corporation. If the desire was to have \$100 million as the capital for this new foundation by taking the monies out, which is what is occurring now, and placing it in a foundation, it will earn interest and the corporation can increase its capital beyond the review of Parliament. By the way, I have no objection to the creation of this foundation.

Does the Auditor General of the Canada have the opportunity to audit those monies in the private corporation?

**Senator Carstairs:** No, the Auditor General does not have the ability to audit the private corporation. The rules governing corporations require that they must have their own auditor, and that auditor would review those monies.

As for the implication that monies can never be taken from consolidated revenues and be given to private companies or, indeed, foundations, it is clear that the government has done that on many occasions.



**Hon. David Tkachuk:** Who were the members of this corporation? Since it is a non-profit corporation, it will not have shareholders; it will have members. Who were the members of this corporation?

**Senator Carstairs:** Honourable senators, I do not know who the members of this corporation were. Again, I will get that information by tomorrow.

On motion of Senator Cochrane, debate adjourned.

### SALES TAX AND EXCISE TAX AMENDMENTS BILL, 2001

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Rompkey, P.C., seconded by the Honourable Senator Adams, for the third reading of Bill C-13, to amend the Excise Tax Act.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, Senator Doody moved the adjournment of the debate on this item. I have been in consultation with Senator Doody. He has completed his study and has nothing more to add to the debate at third reading. Therefore, I wish to inform the house of the same.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

### TOBACCO TAX AMENDMENTS BILL, 2001

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Adams, for the third reading of Bill C-26, to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco.

**Hon. Donald H. Oliver:** Honourable senators, I support the principles of Bill C-26 insofar as they carry out the government's well-meaning intention of protecting the health of Canadians. Like Senator Kenny, I am a non-smoker. However, I also have an interest in the development of good public policy and government initiatives to stimulate business development. With that in mind, I wish to put on the record some important oversights as they may affect the so-called duty-free industry.

There is a tax of \$10 per carton imposed by this bill. This is a brand new tax on duty-free shopping. The government is

undermining the very sector it created and began to encourage many decades ago.

Canada has established a strong position in the international duty-free industry, which is a \$20-billion global industry with a high potential for continued growth. It generates over \$350 million per year in domestic revenues and has become a positive contributor to the communities where outlets are located, to the tourism sector and to the Canadian economy generally.

Duty-free outlets directly employ thousands of Canadians. Many more jobs result indirectly from the millions of dollars of purchases made by this industry of local and national goods and services. Canadian suppliers especially benefit because the key element of the duty-free shopping experience is in the promotion and availability of Canadian-made products.

Government also benefits from these outlets. For example, airport duty-free shops contribute more than \$55 million per year in rent to airport authorities, some of which flows through to the federal government and some to airport upkeep and improvements.

Another example is the fact that, in 1991, the duty-free industry cooperated with the federal government to implement the GST Visitor Rebate Program, providing GST rebates to international travellers to allow the Canadian duty-free industry to make travel in Canada more attractive.

The duty-free industry has existed for centuries. Some of its roots go back to the second half of the 19th century. Before the industry existed in Canada, Canadian and American travellers had to stop at U.S. duty-free shops to meet their travel needs. As a result, the Canadian economy was losing millions of dollars in potential travel and tourism revenues. Therefore, from the inception of the duty-free industry, the federal government has promoted it as a means of supporting small business and job creation in Canada.

The first airport duty-free outlet was established in the 1960s. In the early 1980s, the first land border outlet was opened with these objectives: to promote the sale of domestic goods, Canadian goods; to offer a service to the travelling public with significant levels of savings; to create direct and indirect jobs; and to encourage the private sector operation of these shops with an emphasis on the small business community.

On April 5, 2001, for the first time, Canada imposed a tax on duty-free shopping. It was no longer tax free. The reasons for concern are that duty-free shopping is inconsistent with government support for the duty-free industry and has significant consequences that do not and have not been properly addressed in this bill. Specifically, with this tax, the Canadian government has undermined the principles on which Canada's duty-free industry was established in the 1960s. It has begun the erosion of traffic and sales of all goods and services at duty-free outlets. It has negatively affected tourism and the important role that duty-free shopping has come to play for travellers. It has jeopardized significantly the long-term financial investments made by duty-free operators. It has imposed an extra charge that, while having a negligible effect at best on tobacco consumption, has had considerable negative effect on duty-free stores as well as their suppliers, employees and communities.



● (17:00)

The government has stated that duty-free is being taxed in this bill because there can be no exceptions to its tobacco policy. However, duty-free has always had such an exemption from customs duties and taxes. That was the rationale for the sector in Canada from the beginning — to create an attractive offering for tourists, encouraging small and medium-sized businesses to draw revenues away from other countries.

Honourable senators, it is my view that the government should consider not imposing the \$10 per carton tax on duty-frees in order to save that business sector of the Canadian economy.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, I spoke at second reading. Now I wish to do the same at third reading in order to inform you that I support this bill in principle. The speech I have just heard, however, is cause for concern to me.

I have trouble accepting that the State can dictate our behaviour and can tell us we should not smoke even outside Canada. That is what it comes down to when it creates for the first time ever a tax on products obtained in duty-free shops.

This measure in the bill is a cause of concern to me, yet we have a duty to support it because of its value as a disincentive. The Senate does not need to take any lessons from anyone when it comes to passing legislative measures aimed at reducing the spread of smoking among our young people and at its promotion.

Taxation measures aimed at raising tobacco prices have a direct impact on the ability and desire of young Canadians to buy tobacco products. These measures prevent the duty-free export of tobacco products. Thus they prevent them from coming back into the country duty-free, another measure with which we must agree.

However, I give conditional support, if such a thing is possible, on the clause describing how the additional revenues generated by these taxation measures will be used.

I said basically the same thing at second reading. I was asked by some senators whether this measure would replace another private member's bill we had passed in this House. I said no. This bill put a transparent mechanism into place and guarantees funding for an independent organization in order to achieve the objectives set out in the bill.

There is no guarantee in Bill C-26, with respect to the surplus funds generated by these new taxation measures, that the funds will be used as assistance to any organization wishing to reduce the tobacco market in Canada. Instead, we already have had one example of the State's having taken back money in the name of anti-smoking campaigns only to reinvest it in the consolidated fund.

My question remains: What will the government do with this injection of funds? The future will tell. We will be very vigilant, honourable senators, to see that this tax contribution is properly spent. I urge you to support this measure, honourable senators. It is rare for us to support a tax measure with such haste, but this time it is not simply a question of seeing how the funds will be used, but of seeing the effects of increasing taxes.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to, bill read the third time and passed.

[English]

## INCOME TAX AMENDMENTS BILL, 2000

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Bacon, for the third reading of Bill C-22, to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act.

**Hon. David Tkachuk:** Honourable senators, I rise to speak to Bill C-22, a bill that purports to cut taxes, but Bill C-22 is really a long-range tax plan set out by the Minister of Finance who addressed tax issues before the last election without the benefit of parliamentary discussion nor a thorough examination of the intent of the government.

Instead of decisive action, the government has chosen an action that has little effect on the economy or on the strength of our dollar, an effort that was recognized by the world markets as weak. To placate the resounding wish for tax cuts by the Canadian public, Minister Martin signalled a weak effort stretched over five years in his February 2000 budget and in the October 2000 economic statement, while at the same time continuing to extract from the Canadian public increases in the Canada Pension Plan and very small decreases in employment insurance premiums.

Honourable senators, why does this government continue to tax jobs by keeping payroll taxes artificially high? There is enough money in the EI fund now to fund a three-year premium holiday. There is no question that a dramatic reduction in personal income taxes, payroll taxes, business taxes and capital gains taxes would have meant a substantial increase in the value of our dollar. Admittedly, the only place the government has been effective is with capital gains decreases.

Even here the government has not gone far enough. Individuals should pay no tax on capital gains, period. Completely eliminating capital gains taxes would give Canadians an incentive to take risk. Our standard of living is now 30 per cent below that of the United States. Part of this reflects lower take-home pay after we pay our taxes. Part of this reflects lower work productivity.

There is something wrong when we have a 65-cent dollar and a 50 per cent tax rate. There is something wrong when average income levels in our richer provinces of Ontario and Alberta fall below that of Mississippi, the poorest state in the union to the south. If the minister had significantly lowered both personal and business taxes, that would have led to a lessening of inflation and provided a signal to the rest of the world that we were serious about increasing productivity. The problem is, as we continue down this course of high taxes and a low dollar, we are getting used to it. We think it is good here.

The government continues to tell us that it is good here. The Minister of Finance just recently said, "Oh, everything is fine. We will weather the recession." That, my friends, is a signal to not do anything.

• (1710)

The overall tax relief offered by this bill offers much less than what the Progressive Conservative Party planned for Canadians in its election platform, which called for personal and spousal amounts to increase to \$12,000 by the year 2005, and for a complete exemption from personal income taxes for capital gains.

I find it repulsive that we continue to tax Canadians when they earn \$7,500. I do not know where the Minister of Finance lives; I do not know where the department lives; I do not know where members of Parliament live. Why are people forced to pay income tax when they net \$7,500?

Many of the changes in this bill are to be passed retroactively. This supports the government's trend of taking many years to legislate changes it makes in the budget. Taxes continue to be collected on the assumption that the measures will eventually be retroactively made law. The only changes to which the government will not make an exception are refundable tax credits. For everything else, it is collecting the taxes, doing whatever it has to do, except on the tax credits.

The government has planned an increase in July in the National Child Benefit. This bill hinges on that. In other words, if we hold up this bill, poor children will not get any extra money. In reality, it is almost a form of blackmail to parliamentarians because it a question of passing the bill or making low-income children wait. The National Child Benefit is a spending measure. It is disguised as a tax rebate, but it is a spending measure that could easily have been approved as an expenditure in a separate bill. For that matter, how can one be poor enough to receive a cheque from the National Child Tax Benefit but rich enough to pay taxes? The National Child Tax Benefit is targeted at the

working poor with incomes below \$32,000. There is something wrong with collecting taxes from single mothers earning half that amount, which is what the government does now.

Why does this government insist on taxing the poor? It does so because, in the end, it wants to help the poor not by lowering taxes but by sending them cheques to make them continually dependent on the government rather than dependent on their own efforts and opportunities.

We are going back to four tax brackets instead of three. Instead of simplifying tax measures, the government has made them more complicated. I thought we were moving away from those complications. Minister Wilson started to simplify the process, this government continued that policy, and I thought we would go perhaps to a two-level tax bracket. Now we have gone to four.

Honourable senators, this is also a move away from tax fairness. Canada is now one of the most heavily taxed countries in the OECD. Bill C-22, like Bill C-8, the financial services bill, the Canada Pension Plan of a few years ago, are all lost opportunities for the government to have done what is good for the country.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

Motion agreed to and bill read third time and passed, on division.

## **ELDORADO NUCLEAR LIMITED REORGANIZATION AND DIVESTITURE ACT PETRO-CANADA PUBLIC PARTICIPATION ACT**

**BILL TO AMEND—THIRD READING**

**On the Order:**

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Ferretti Barth, for the third reading of Bill C-3, to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, my colleague Senator Eyton is our critic on this bill. He spoke at second reading and has advised me that he has nothing more to add at third reading. Based on the canvass of the opposition, I think we have on the record all that we need to say regarding this bill.



**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

**PARLIAMENT OF CANADA ACT  
MEMBERS OF PARLIAMENT RETIRING  
ALLOWANCES ACT  
SALARIES ACT**

BILL TO AMEND—SECOND READING

**Hon. Sharon Carstairs** moved the second reading of Bill C-28, to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act.

She said: Honourable senators, I am pleased to rise today to speak to Bill C-28, the parliamentary compensation legislation. We have been aided in this debate by the recommendation of the commission chaired by the Honourable Ed Lumley, which was tabled on May 29, and I thank all commissioners for their excellent work.

The commission recommended making the tax-free allowance a taxable allowance and adding it to the base salary.

Honourable senators, by going ahead with this recommendation, I believe we will be improving the transparency of our salaries. I believe that is fair and honourable, and particularly fair to the taxpayers who have been asking for this kind of transparency for some time.

Second, the commission recommended a 20 per cent increase in base salaries. At the present time, a senator receives \$69,100 as a sessional indemnity and a \$10,800 tax-free allowance. When the calculations were conducted by the commission, they came to a total equivalent taxable income of \$88,200. If Bill C-28 is adopted, the full sessional allowance of senators will be \$106,400.

Third, the commission recommended that the Prime Minister's salary be referenced to that of the Chief Justice of the Supreme Court and that in the future this reference point be used for increases. Bill C-28 eliminates the current political process for determining parliamentary compensation, which we have had for two and a half decades, and replaces it with an independent and non-political process. That, I believe, is also fair for Canadian taxpayers.

There have been also some changes to pensions, honourable senators. The accrual and contribution rates would now be the same for members of both the House of Commons and the

Senate. At the present time, members of the other place have an accrual rate of 4 per cent and senators have an accrual rate of 3 per cent. Under this new bill, the accrual rate for both senators and members of the House of Commons will be 3 per cent.

Members of the other place at present have a 9 per cent contribution rate and senators have a 7 per cent rate. However, under this legislation, we would now both have a contribution rate of 7 per cent.

Under the new plan, pensions would be fully maximized after 25 years, which is not a change for us but is a change for the House of Commons.

I would note that the current difference of tax free allowances between the two Houses is converted to a fixed \$25,000 difference in the sessional indemnity, and this difference will now change in the coming years. That is a significant improvement for members of this chamber. I believe that honourable senators understand the origin of this differential and understand the need to support its maintenance in the way set out in Bill C-28.

Honourable senators will also be pleased to see that Bill C-28 addresses a long-standing concern of honourable senators for a disability allowance for senators over the age of 65.

● (1720)

As honourable senators know, the Standing Committee on Privileges, Standing Rules and Orders of this chamber recommended in 1998 that disability coverage, which is currently available to all senators under the age of 65, be extended until age 75, or the compulsory retirement date. Bill C-28 fulfils that recommendation. Under Bill C-28, a disability allowance equivalent to 70 per cent of a senator's allowance will be provided to honourable senators who are unable to fulfil their responsibilities for reason of disability.

I should say, honourable senators, that this has also been extended to members of the House of Commons. It is true to say that we are an ageing society, and I think we will find many more parliamentarians in the other chamber serving long after their sixty-fifth birthday.

Honourable senators, I believe that this bill is fair and reasonable. It implements the Lumley commission recommendations for parliamentary compensation based on other comparable professionals. Honourable senators' concerns about compensation relative to the other place, as well as other issues honourable senators have commented on, have been addressed in this bill.

Honourable senators, this is a reasonable, fair and I believe balanced approach to parliamentary compensation, and provides a sound basis for ensuring that parliamentary compensation changes in the future are set through an independent and non-partisan process.



I would urge all honourable senators to support this bill. I would urge all honourable senators to vote for this bill and I would urge all honourable senators to hold their heads high in defending this bill in the public arena. I believe each and every senator deserves the compensation that is found in this legislation, and I welcome any questions that honourable senators may wish to ask.

[Translation]

**Hon. Serge Joyal:** Honourable senators, I should like to thank the members of the Senate Internal Audit, Budget and Administration Committee who helped prepare the Senate's representations to the members of the Lumley Commission and, specifically, Senators Kroft and Austin and the Government Leader in the Senate, to whom Senate views could be expressed during the debates and discussions that preceded the government's decision to introduce Bill C-28.

However, honourable senators, I would draw to your attention today a point I consider fundamental.

[English]

Bill C-28, as with all bills considered in Parliament, starts with this opening phrase:

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows...

This sentence states quite clearly and categorically one of the constitutional principles that is at the very core of our Parliament: The equal advice and consent of the two Houses of Parliament, the Senate and the House of Commons, are both required for the valid enactment of any federal legislation. This is a fundamental constitutional principle. It is undeniable. It is the contemporary expression of the historical principle that the laws are made by "Kings, Lords and Commons."

Given this principle, how is it reflected in Bill C-28, a bill dealing with parliamentary remuneration? Does Bill C-28 reflect, in fact, the constitutional principle of equal consent of both Houses for the valid enactment of legislation?

Clause 4(2) of Bill C-28 provides that the Speaker of the Senate will receive an annual salary equal to the remuneration reference amount multiplied by a factor of 17.6 per cent, while for the Speaker of the Commons it is a multiplication factor of 24 per cent. The net result gives to the Speaker of the Senate an annual salary of \$152,160 and to the Speaker of the Commons \$194,640, a difference of \$42,480, which is well above the \$25,000 base difference between the remuneration of the members of the Commons and the senators, as provided in clause 2 of the bill. Other colleagues may address the reasons proposed to explain the rationale for that difference, and other issues related to the determination of the reference amount.

Such a discrepancy in the remuneration of Speakers is hard to understand. It is even more perplexing when one considers the formal rank of the Speaker of the Senate as established in the Order of Precedence. The Order of Precedence, issued by Her Majesty in Right of Canada in the exercise of the Royal Prerogative, provides that the five highest ranking positions will be those of, first, the Governor General, second, the Prime Minister, third, the chief justice, fourth, the Speaker of the Senate, and fifth, the Speaker of the House of Commons.

The Order of Precedence respects the structure of government under the Crown: the executive, as represented by the Prime Minister, then its judiciary, as represented by the chief justice, and immediately after those two, the representatives of the legislative function in both Houses of Parliament, the Senate first and then the House of Commons.

This structure, embodied in the Constitution Act of 1867, in sections 91 and 96, is the coherent, logical, rational interpretation of our organic system of government. In that constitutional structure, the Speaker of the Senate has precedence over the Speaker of the Commons. This precedence was illustrated, for example, when British Prime Minister Tony Blair addressed both Houses of Parliament on his official visit to Canada last February. The Speaker of the Senate addressed the assembly first, before the Speaker of the Commons, even though the event took place in the House of Commons.

Why is it that the Senate enjoys this precedence, this designation as the Upper House? Honourable senators, it is because senators are personally summoned under command of Her Majesty to attend the Senate and to advise and assist in the affairs of Canada, laying aside all difficulty and excuses to do so.

The commission that senators have under the command of Her Majesty is very different from the mandate possessed by members of the House of Commons, who are elected by the people to represent their views in the debate and the affairs of the nation. This explains the differential in remuneration between members of each House.

The rank of the Senate is also demonstrated by the fact that, according to parliamentary tradition Her Majesty, or her representative, addresses both Houses with the Speech from the Throne and gives Royal Assent to bills passed by both chambers exclusively in the Senate chamber.

The Speaker of the Senate has a very specific and unique role. The chief duty of the Speaker is to guide and regulate the proceedings of the Senate. He fulfils this responsibility in an impartial manner, distanced from the day-to-day political activity of the parties. He can vote, but is not entitled to a casting or deciding vote.

The Speaker participates in the openings of Parliament. He is responsible for the proper conduct of the business in the Senate. It is also the Speaker's task to ensure that the powers and privileges of the Senate are observed.

The Speaker is the spokesperson and representative of the Senate in dealing with the Governor General, the executive, the House of Commons and the general public. The Speaker receives visits by foreign heads of states and their representatives. The Speaker of the Senate also represents Parliament and the Senate at international conferences and leads parliamentary delegations to other nations, as well as receives numerous parliamentary delegations visiting Canada from other countries. In performing all of these duties, the Speaker of the Senate is no different from his counterpart in the House of Commons.

Consequently, one would have thought that it would only be right that the remuneration of the Speaker of the Senate would be equal to that of the Speaker of the House of Commons. After all, the Senate and the House of Commons are virtually equal in legislative authority and equal in status as wholly independent and autonomous Houses of Parliament.

One would have thought that the logical system that Bill C-28 aims to implement is to establish a reference amount, apply a ratio for all other functions related to the performance of debate and study in both Houses of Parliament, and apply it equally for each chamber.

Unfortunately, it seems that the principle of parity between the two Houses does not apply for the position of the Speaker of the Senate, nor to the functions and responsibilities involved in the conduct of debate and votes in the Senate chamber.

As I have already indicated, the Speaker of the Senate will receive considerably less than the House of Commons Speaker. To my mind, this has the effect of diminishing his actual status as recognized in the Order of Precedence which, to date, has placed the position of the Senate Speaker before that of the Speaker of the House of Commons.

What can we do to correct that oversight, honourable senators? Can we amend Bill C-28 to restore to the Senate Speaker his rightful standing and establish parity with other corresponding functions in the other place? The answer is no, we cannot. Bill C-28 is a money bill and our constitutional power is limited as provided in section 53 of the Constitution Act of 1867. We can either reduce the amount of any appropriation, even down to zero, we can reject the bill outright, or we can accept the provisions as stated in the bill.

Should we, for instance, reduce the multiplying factor of the Speaker of the House of Commons to 17.6 per cent and thus make his remuneration equal to that fixed for the Senate Speaker?

I am personally of the opinion that meanness is not acceptable when one has to define the line of respectability that our house has to maintain in the performance of its constitutional duties.

Should we vote down the provisions of Bill C-28 and send the bill back to the other place? The turmoil that would inevitably result from such an initiative would certainly damage the

cooperative relationship and respect that are essential ingredients for the functioning of the parliamentary process.

In the end, it seemed to me to be wiser and more useful to consider adopting, at an appropriate time, a resolution expressing our position and calling for the cooperation of the government to consider the advisability of introducing in a bill a provision that would give effect to parity in remuneration for both Speakers and positions of similar function in each House. This to me seems a proper way of addressing the constitutional principle of parity that needs to be affirmed by our House of Parliament.

**Hon. Jeremiah S. Grafstein:** Honourable senators, I rise to share concerns, some so cogently articulated by Senator Joyal, with respect to the provisions of Bill C-28, to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act.

Who in this chamber can argue with the underlying premise that the current pay scales for both members of the House of Commons and the Senate are objectively and palpably unreasonable or unfair, having in mind the members' constitutional duties?

Current parliamentary remuneration certainly requires redress and renovation. The proposed pay levels are not the heart of my concern. The proposals are fair and equitable. My concern is that the differential pay scales for specific offices in the Commons contrasted with Senate offices demonstrates a form of institutional, incremental, alarming diminution of the Senate. The Senate, save for money questions as set out in section 53 of the Constitution and restricted constitutional amending powers, holds constitutional powers — fulsome powers equivalent to the Commons — for historic and essential constitutional checks and balances.

The Senate Speaker, as Senator Joyal points out, stands fourth in the official Order of Precedence and second behind the Prime Minister in political position. Why, then, discriminate between the Speakers of both chambers? Both are full-time jobs; both are replete with constitutional significances. Why, then, should the Leader of the Government in the Senate and the deputy leader here in the Senate be paid less than junior ministers of the Crown? Indeed, why should the Leader of the Opposition in the Senate not be treated with parity as the same office in the Commons? All are full-time jobs of significant constitutional responsibility.

A question has been raised with respect to the appropriateness of pinning the amount of parliamentary compensation to the remuneration of the Chief Justice of the Supreme Court as a remuneration reference amount, as a formula. Bearing in mind the principle of separation of powers, basing the formula on one developed for judges' remuneration by a commission where the judges appoint one commissioner, the government appoints a second, and the two appoint a third, raises issues of constitutional sensitivity at least and certainly with respect to separation of powers.



Surely, a more appropriate mechanism to take into account the separation of powers under our constitutional bicameral system could be devised. In the United States, a constitutional amendment requires an independent commission to ensure fairness and acceptability. Hopefully, future deliberations of Parliament respecting the remuneration of parliamentarians will revisit and remonstrate on these fundamental questions.

Constitutionally, the Senate is limited to either reducing money bills or *in extremis* to defeating same. In this case, I have taken a different course of raising what I consider to be serious questions of appropriateness, bearing in mind the bicameral nature of Parliament, the equality of both chambers of Parliament on most matters, and the paramount necessity of sustaining the facts and the symbols of representing our constitutional checks and balances so artfully and so painstakingly constructed by our Fathers of Confederation.

Honourable senators, while form follows substance, substance also follows form.

**Hon. Lowell Murray:** Honourable senators, I should like to ask Senator Grafstein a question, if would he permit one. As I understood him, he objects to using judicial salaries, the salary of the Chief Justice, as a reference point for remuneration of parliamentarians. Instead, he suggests that an independent commission should be appointed to deal with the matter. This is what we have now, to some extent, with the Lumley commission having studied and reported on the matter, as previous commissions over the years have done after each general election.

The problem that arises, however, and that all of us find so disagreeable, is that upon the presentation of a report from that commission, the members of the two Houses of Parliament have to vote their own remuneration packages. Under the system that is proposed in this bill, as I understand it, the remuneration will be automatic. We would never again have to vote our own salaries. This will be done automatically.

• (1740)

Indirectly, I suppose, we might be called upon to vote for the judges' salaries, if it were proposed to increase the base amount. There will never be another Lumley commission under this bill, as I understand it, and the changes to the remuneration of parliamentarians will automatically follow the formula that is already established for judges.

Can my honourable friend suggest a way of having an independent commission look into our salaries but avoiding the necessity of having us vote on it?

**Senator Grafstein:** Honourable senators, I should like to sort out my concern for the senator. It was a concern raised by one of our colleagues on this side. That senator may wish to speak for herself.

The issue, for me, was the careful tying in of a reference point relating to a commission that is established, as I said, for judges. That is a question in continuum. We will be able to address that at a future time. I have no problem with the formula per se. My problem is the cross-reference of the formula to that judges' commission, in effect, or the mechanism under the Judges Act. That, to my mind, impinges upon the insensitivity that we have been trying to define here between the role of the judges and the role of Parliament. It is a delicate issue. It is like an accident. Everyone viewing the accident has a different view of it. At the end of the day, I think that there is some sensitivity here for appropriateness and for appearances. There will be ways in the future for us to address that particular issue.

Regretfully, I was overseas and not present here during third reading of the judges' bill. I would have raised it then as an issue, not to stop the judges' bill per se, because I supported the bill when I introduced it, but I did want to bring the attention of senators to this issue. This issue, by the way, is not unique to us. It has been raised in other quarters and in academic circles. I just wanted to bring this very sensitive issue to our attention. This is the time to do it. In no way, shape or form should we, in my view, impede what is going forward.

There are serious questions, and certainly that is one serious question. Another serious question relates to the Leader of the Government in the Senate. Why should the Leader of the Government, who is here seven days a week in her official position as Leader of the Government in this chamber, receive anything less than a junior minister of the Crown, or on the other side, the Leader of the Opposition? It is a most important, significant role for checks and balances. Why that? I think it is important for us to raise it, and we will have an opportunity in the future to address this more fully.

**Senator Murray:** She should not receive less as a minister. She will receive less only because she is a senator. She is covered by the Salaries Act and receives, as a minister, the same emolument as the Minister of Finance, let us say.

**Senator Grafstein:** My point is that she is not just a minister in the normal fashion in the cabinet. She has a constitutional responsibility to address. She attends cabinet and represents the Senate in cabinet. This is a position of high constitutional significance, as is the Leader of the Opposition in the Senate. These are positions of high significant, constitutional importance.

While I can understand the differential between members of the other place and this place, because they have larger responsibilities with respect to their voters, the offices here are co-equal in power in many ways. Certainly in terms of time and attention, no one can suggest that either the Government Leader or the Deputy Leader or the Leader of the Opposition is not working as hard as any member of Parliament or any cabinet minister.



Those are my issues. Those are my concerns. It is important when we deal with this bill that the government know that some of us in this chamber feel strongly about some of these measures. We will have an opportunity, honourable senators, to remonstrate on this and redress this imbalance.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Carstairs, PC, seconded by the Honourable Robichaud, PC, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

**The Hon. the Speaker:** When shall this bill be read the third time?

On motion of Senator Carstairs, bill placed on Orders of the Day for third reading at the next sitting of the Senate.

## FARM CREDIT CORPORATION ACT

### BILL TO AMEND—SECOND READING

**Hon. Jim Tunney** moved the second reading of Bill C-25, to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts.

He said: Honourable senators, I am pleased to move second reading of the debate on Bill C-25, amending the Farm Credit Corporation Act, and begin debate on it. I am proud to introduce this important piece of legislation, which will position the Farm Credit Corporation to meet the needs of the agriculture industry today and well into the future.

I do not need to remind anyone in the Senate that agriculture is the backbone of most rural economies in Canada. This new legislation builds on the existing Farm Credit Corporation Act of 1993. It expands the depth and scope of services the corporation is able to offer farm families and farm-related businesses across rural Canada.

Through this legislation, Farm Credit Corporation will help more farm families achieve their long-term goals. The corporation will assist a greater number of agricultural enterprises in creating jobs and economic growth in rural Canada. It will have a new name — Farm Credit Canada and Financement agricole Canada — to better reflect its federal identity. Farm Credit Corporation will be better positioned to contribute to the long-term sustainability and prosperity of rural communities where farmers live and work.

The corporation has a long tradition of anticipating the needs of agriculture. Since 1959, Farm Credit Corporation has worked with the industry to introduce services and to meet its needs.

In the past few years, FCC has introduced many new financial options that lead the way in meeting emerging requirements. It is estimated that upwards of 120,000 Canadian farmers will be retiring over the next decade and that \$50 billion in farm assets will change hands. There definitely is a need for services that help farm families make the transition from one generation to the next, just as beginning farmers need help in getting a solid start.

That is why Farm Credit Corporation introduced the AgriStart loans in 1998. These loans recognize the marketplace realities young farm families face today. They provide flexible payment options to help young farmers grow their operations through the initial developmental stage. These options also assist exiting farmers pass the farm on to the next generation.

• 17501

Last year, the corporation developed Flexi-Hog, a name that suggests that the loan offers flexible payment options to help hog producers through the cyclical downturns in their industry. Earlier this year, FCC introduced Enviro-Loan nationally to enable producers to upgrade or expand their operations according to the latest environmental standards.

FCC has its ear to the ground, listening to the needs of producers and the agricultural industry. It has its eye on the horizon, anticipating the industry's needs in the years to come. Since 1993, the Farm Credit Corporation Act has served the Canadian agriculture industry in good stead, for nearly a decade.

However, any producer will tell you that the marketplace has changed considerably in the last eight years. Producers are venturing into new crops and livestock production. They are entering into more long-term contracts with suppliers and buyers. They are forming alliances with other farmers to increase their purchasing and selling power. Some producers are exploring new generation cooperatives; others are expanding into value-added manufacturing to diversify their revenue source.

The average agricultural operation requires a more complex range of financial and business services than could have been foreseen when the act was last amended in 1993. FCC has played a leadership role in meeting these needs. The corporation is the only national financial institution totally dedicated to agriculture. Its slogan, "Agriculture. It's all we do," is more than a marketing strategy; it is a statement of fact.

The corporation and its 900 employees are well recognized for their agricultural expertise. In fact, most of them have come from farming backgrounds. Through its network of 100 offices, FCC is able to reach producers throughout rural Canada. All of these qualities enable the corporation to play an even greater leadership role in building the agricultural industry of the future.

The Minister of Agriculture and Agri-Food Canada first met with the senior executives of the FCC two years ago to explore updating the 1993 act. Mr. Vanclief asked the corporation to consult with agricultural and financial associations across the country on whether the act should be adjusted to meet emerging industry needs.

In the winter of 2000, the Farm Credit Corporation met with staff of more than 100 national and regional organizations to discuss proposed changes to the existing legislation. The majority of agricultural organizations were supportive of the proposals. They recognized the necessity of updating the act to meet the needs of their members and producers, in general. The major concern expressed by some farm groups was that the Farm Credit Corporation keep its focus on family farms and primary production.

Allow me to state, without qualification, that farming will continue to be the main focus and driving force of the corporation. This commitment is built right into the new legislation. Currently, more than 90 per cent of the Farm Credit Corporation's lending is directed to primary producers. To demonstrate the FCC's ongoing commitment to producers, we have included a proposed amendment to the act that requires farming operations to be the main focus of the corporation's activities.

In their meetings with financial industry groups, the Farm Credit Corporation representatives went to considerable length to demonstrate that the corporation is seeking expanded opportunities to partner, not compete, with the private sector and other government agencies. There is a definite need for increased financial options in rural Canada that can be effectively addressed through partnerships.

The corporation is actively seeking partnerships with other financial institutions and government agencies that combine its agricultural expertise and rural reach with their specialized services. To date, the Farm Credit Corporation has 27 partnerships across the country, and plans to grow this number in the coming years.

Using the valuable feedback and suggestions gained from these consultations, the federal government has created amendments to ensure the continued relevance of the act. The amendments were based on three guiding principles: one, the need to offer agricultural operators a greater range of options in financial and business services; two, the need to offer farm-related businesses increased access to capital in support of primary producers; and three, the FCC's need for greater structural flexibility to offer more services to partnerships and to remain viable to serve producers over the long term.

I will briefly review the major proposed amendments. The first amendment demonstrates the federal government's continued commitment to Canadian agriculture. We seek to change the name of Farm Credit Corporation to Farm Credit Canada. In

French, it will change from Société du Crédit agricole to Financement agricole Canada. This change reflects the corporation's public mandate to serve rural Canada as a federal corporation. Adding the word "Canada" to the corporation's name sends a clear, visible message that federal government plays an active role in rural communities. The name change also supports the new federal identity guidelines.

Another key amendment allows the Farm Credit Corporation to offer business services to producers either directly or through partnerships. As I have mentioned, the average producer needs access to a broad range of business management services to succeed. Those services could include business planning, succession planning or land management. These services currently exist in some parts of rural Canada, but the FCC can provide the network to make these services acceptable throughout rural Canada. Agricultural operators are running businesses just as complex as any urban-based small business. They deserve the same access to services as their urban counterparts.

The proposed legislation would clarify the FCC's ability to offer lease financing to agricultural operators. While the act does not prevent the corporation from offering lease financing, the scope of these services needs to be more clearly identified. Leasing is a growing financing option for producers who want more flexibility to manage their cash flow. This especially applies to new producers who are starting out.

The new legislation will enable the FCC to offer equity financing to producers and to farm-related businesses. Many farming and farm-related operations need access to equity as well as term financing. In fact, rural communities cannot develop local value-added agriculture industries without venture and equity capital. FCC will not only be able to make direct equity investments in local agricultural enterprises, it will be able to leverage this investment to attract other equity providers.

An important proposed amendment to the act will allow the Farm Credit Corporation to provide financial services to farm-related businesses that benefit agriculture. Currently, the corporation can lend only to businesses that are farmer owned. If one steps back for a moment to look at agriculture as a whole, one will see that it is no longer divided into neat categories of suppliers, farmers and processors. As the industry becomes more integrated, interdependencies grow. The farmer who has diversified from wheat to chickpeas might depend on a local processor to purchase his crop.

• (1800)

**The Hon. the Speaker:** I regret to interrupt the Honourable Senator Tunney, but I must draw to the attention of honourable senators that it is now six o'clock. Our rules provide that I must leave the Chair and adjourn until eight o'clock unless it is agreed that we not see the clock.



**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I suggest that we do not see the clock.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** That sounds like a sterling suggestion.

**The Hon. the Speaker:** Is it agreed, honourable senators, that I not see the clock?

**Hon. Senators:** Agreed.

**Senator Tunney:** Honourable senators, amendments to the financial structure of the corporation will give it added flexibility to seek new partnerships and to offer expanded services. The Farm Credit Corporation will be able to create subsidiaries to enter partnerships offering new services at arm's length from the existing portfolio. The corporation will have access to a broader range of financial management instruments to fund services it provides to producers. These amendments help the corporation provide new services that meet emerging needs.

In the past four decades, the FCC has served producers and agriculture through commodity cycles, through good times and bad. The corporation has shown great flexibility in working with producers to see them through market downturns and climactic disasters.

When times get tough, this commitment is especially evident. In 1998, the FCC was there to help Quebec and Ontario producers during the severe ice storm. The corporation has worked with Prairie producers through the downturn in cereal crops and oilseeds. In the past year, the FCC has helped farmers in southern Alberta weather the drought.

Honourable senators, I have just explained the reasons driving our pursuit of amendments to the Farm Credit Corporation Act. As well, I have outlined the key amendments and their benefits to Canadian producers. I would ask that members of the Senate support this important legislation.

**The Hon. the Speaker:** Honourable senators, I will be calling on Senator Gustafson to intervene on the bill, but Senator Taylor and Senator Milne are rising on questions.

**Hon. Nicholas W. Taylor:** Honourable senators, I have a question. I am not sure I caught all that was said about the FCC Act, nor have I kept up on it entirely, but it sounds like Senator Tunney has made a very good presentation on how the FCC will have to expand into the community not only from farms but on financing whatever the farmers do with their products.

I missed where the FCC will get the additional money if it is already financing farmers. What system will be used to generate more capital to enlarge into this field that it has targeted?

**Senator Tunney:** I thank the honourable senator for that question. I am not sure he is old enough to remember this, but I am: When farm credit was instituted in 1959, the federal government set up the corporation. The corporation had to depend on financing until the returns from their lending operations began to accumulate, which is now the case. For years and years, the Farm Credit Corporation has been able to loan out the money that is returned as mortgages are retired or as mortgage payments come in.

When there is an expansion in the total overall operation, of course, new money is required. That new money comes from the federal government as a loan that is to be returned to general revenue. For some services, farmers pay a user fee. Farmers are very happy to pay that fee to have those services, as I can tell you from experience. When I was a client, I used to submit my monthly finances to the Canfarm office, and I got a printout back showing me exactly what I was doing. Each month I knew within a penny how much it cost me to produce a pound of milk.

**Hon. Lorna Milne:** Honourable senators, with its expanded role, can the new Farm Credit Canada assure us that the right programs will be developed and delivered? I ask this question particularly with regard to hemp growers, who are presently unsuccessfully attempting to raise money from the Business Development Bank. They have been unsuccessful so far because agricultural enterprises are historically not able to make the large return on money that regular lending institutions require. Will the new FCC address this problem?

**Senator Tunney:** I thank the honourable senator for that question. I will make an observation while answering her question.

First, we know that commercial financial institutions are not always keen to get into unusual financing. I suggest a new processing plant for hemp fibre requires unusual financing as a new enterprise.

We do know about a U.S. enterprise in Manitoba that was not successful. We also know of one in western Ontario that certainly is successful on a very small scale. That operation is looking for financing to establish the proper-sized facility to accommodate a potentially tremendous new industry in Ontario. I am sure, if we do it right, that it can work in Manitoba and probably in Saskatchewan as well.

There is a dearth of new crops in these times. Grains and oilseeds sell at very low prices, almost bankruptcy prices. The Farm Credit Corporation, to its credit, has a history of smart financing. Many banks and other institutions have a history of going the other way. Many financial statements show that the bank made a disastrous deal. The loss ratio of the Farm Credit Corporation is astoundingly low. Clients in arrears are remarkably few in number.

**Senator Milne:** Farmers pay their debts.



• (1810)

**Hon. A. Raynell Andreychuk:** I was pleased to see that Senator Tunney pointed out that the main emphasis in the farm credit bill will continue to be on the family farm. So many farmers have expressed concern that it not be a way of revitalizing agricultural industries, which probably should have its own initiative and we should not use this mechanism. Senator Tunney seems to give me the assurance, before the committee has dealt with the bill, that the heart of the bill will stay to support family farms and not other enterprises.

Can the honourable senator assure me that there will be an accountability mechanism built in so that one, two or three years from now the monies are not, in a discretionary way, put to these other ancillary enterprises away from the family farm as so many other bills in the past have taken that turn.

**Senator Tunney:** I thank the honourable senator for her question. The Farm Credit Corporation, as a service industry, would lose its credibility, its popularity and its support in a very short period of time if it started to veer away from the purpose for which it was set up. Only to the degree that the new options for funding will help existing farmers will that be taken into account. In other words, Farm Credit Canada, the new name, will not become a financial institution like so many we know.

**Hon. Leonard J. Gustafson:** Honourable senators, I will be very brief in my remarks on this bill. I want to make it clear at the outset that what I have to say on this bill does not relate to all that the Farm Credit Corporation does, but I am dealing with the specific bill, C-25, which I support. While some changes should come to the way in which the Farm Credit Corporation does its collections and other things with farmers who are hurting, there have to be some changes. I want to make that clear, but my remarks today will be directly related to Bill C-25.

There are two parts of this bill with which I am very much in agreement. The first is that the bill indicates very clearly that the farming operations and the corporation will deal with family farms. Anyone who knows much about the prairie farm will know that the family farm is the stability behind the farming. The farmers, the wives and the children work together, which strengthens the farm, but there has often not been the ability to obtain financing unless it was a formal corporation. This bill creates some leverage, as I understand it, that will help the family farm to be financed and, especially, to make the transition from one generation to the next.

One of the problems farmers have now is that older farmers whose only savings may be the equity they have in their farm do not have a retirement plan. If they cannot get money out of the family farm and the younger farmers move on, that presents a major problem. My understanding is that this bill will give some support in that area.

The second important aspect of the bill is the related areas that will be financed. As an example, I will use the pasta plant that farmers have tried to build in Weyburn. I hope that the Canadian Wheat Board is listening and that it makes some changes that

will allow Farm Credit Corporation to do its job as provided in Bill C-25. If the board does not cooperate and allow them to have their own grain, as it were, and to process it in a pasta plant, the business will go to North Dakota. I make that caveat. However, that is not in the hands of the Farm Credit Corporation. The corporation is indicating that for such processing and agricultural related businesses, it will make financing available.

From this side of the house, I want to say we support these positive initiatives. This is one of the better pieces of legislation that has been brought down for agriculture in this time. Therefore, we support it.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** When shall this bill be read the third time, honourable senators?

On motion of Senator Tunney, bill referred to the Standing Senate Committee on Agriculture and Forestry.

## AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING  
SITTING OF THE SENATE

**Hon. Leonard J. Gustafson:** Honourable senators, with leave of the Senate, I move that the Standing Senate Committee on Agriculture and Forestry have the power to sit today, even though the Senate is now sitting, so we will have a further chance to discuss the bill in committee.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

[Translation]

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING  
SITTING OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit at 6:30 p.m. today, Tuesday, June 12, even though the Senate may then be sitting, and that rule 96(4) be suspended in relation thereto.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

## FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS ACT

### BILL TO AMEND—THIRD READING

**Hon. William Rompkey** moved the third reading of Bill C-18, to amend the Federal-Provincial Fiscal Arrangements Act.

He said: Honourable senators, I just want to make a few comment on Bill C-18 because I think there is another item coming up later today which we might get more substantive debate. Once that debate is completed, hopefully we can attack it again in the fall.

We should support this particular bill. It raises the cap for one year. It is not enough and it is not what we want, but, on the other hand, we should not turn it down.

This bill means money for all the receiving provinces. In my case, in the case of Newfoundland, it means an additional \$36 million, which the Minister of Finance this morning told us represents about 10 days of health care.

• (1820)

There are real problems that we need to come to grips with; for example, the receiving provinces do not have enough money for health care or education. However, I do not think this is the forum to address those problems. We should take our time and examine the situation in some depth.

I would ask the Senate to adopt Bill C-18 as it stands.

[Translation]

**Hon. Gérald-A. Beaudoin:** Honourable senators, I wish to say a few words on Bill C-18, to amend the Federal-Provincial Fiscal Arrangements Act.

Equalization is a manifestation of the federal spending power. It takes the form of unconditional transfers by the federal government to the have-not provinces in Canada. Currently, only Alberta, British Columbia and Ontario are not receiving equalization payments.

The fundamental objective of equalization payments is to give to the provinces that need it the necessary funding to allow them to provide public services that are basically comparable to those of the richer provinces.

In fact, when the federal government gets involved in the area of equalization and in the fight against regional disparities, its actions are considered to be in compliance with the principles of federalism. In Canada, the central power redistributes the wealth between the rich provinces and those that are less fortunate, to create a level playing field. Without appropriate financial resources, a province cannot fully enjoy its constitutional autonomy.

The principle of equalization and of the fight against regional disparities is now enshrined in the Constitution without changing the division of powers. It is now up to the courts to rule on the scope of these legislative provisions.

According to some legal experts, it is not sure that section 36 of the Constitution Act, 1982, has more than a moral and political value. Professor Hogg is inclined to think that this section probably does not create a legal obligation. This opinion is also shared by Professor Andrée Lajoie, Elmer Driedger and former Clerk of the Privy Council Gordon Robertson. On the other hand, in their book entitled *Droit constitutionnel*, professors Brun and Tremblay wrote that section 36(1):

...rather legitimized the federal government's financial intrusions to ensure "equal opportunities", particularly as regards the provision of "essential public services".

Similarly, in a very well-researched masters thesis presented in September 1993 at the University of Ottawa's School of Graduate Studies and Research, Claude Lebel made a convincing case that section 36 of the Constitution Act, 1982, is definitely justiciable.

In his view, section 36 constitutes an entirely legitimate constitutional standard flowing from a notion of social justice based essentially on equality of opportunity. In this respect, subsection 36(2) of the Constitution Act, 1982, sets out the commitment in principle on the part of Parliament and the government to make equalization payments. According to Mr. Lebel:

The effect of this commitment is to place a relative limitation on this financial and fiscal obligation by giving it a real constitutional and legal impact. It was made in order to give concrete form to one of the ideas, in this case, the idea of sharing collective wealth, of those who thus exercised their political power when it was enshrined in the Constitution.

The result is that this idea of making such a commitment has become a legal fact, whose political origin has been transformed into a constitutional obligation. This has two consequences:



a) any provision incompatible with this commitment must be ruled invalid or unworkable in accordance with the general provision of subsection 52(1); and,

b) the texts of any laws flowing directly from this commitment which are directly affected by the purpose of this commitment must be interpreted accordingly.

There has been no ruling on the scope of section 36. In my view, the Supreme Court could say that the federal government must make a commitment, in other words, that section 36 has a legal effect, but it may not rule on the amounts to be expended, because this would be interference in the parliamentary sphere.

The purpose of Bill C-18 is to remove, for the fiscal year 1999-2000, the ceiling that applies to equalization payments. In my opinion, this is a good measure, and one requested by a majority of provinces. As Senator Comeau pointed out in his speech on May 29, 2001, this ceiling should be removed permanently.

[English]

**Hon. Brenda M. Robertson:** Honourable senators, I have a few things I want to say about Bill C-18, which retroactively lifts the ceiling on equalization payments for fiscal 1999-2000.

Bill C-18 has been variously described in the other place in many ways. It has been described as a "political deal," a sweetener proposed at the final hour before the last federal election to have the provinces accept less than the full restoration of the CHST transfers to 1993 levels. It has been described as "an attempt to fool Canadians," a feeble effort to give money back, after taking away \$23 billion out of the CHST, pretending that it is some kind of great largesse from a benevolent Liberal government. It has been described as "poor public policy making," a political demand put on the table in a horse-trading session with the premiers, which is no way to make serious public policy. It has been said that it "deceives the provincial finance ministers," that a reinstated cap, a year from now, will be at a lower level than the finance ministers thought they agreed to on September 11, 2000.

In the other place, it has also been said that it "short changes Canadians," that in a time of record federal surplus, the largest ever, regardless, the federal government has imposed in an unrealistic low ceiling on transfer payments. It has been said that it "tinkers with the nation's equalization program," that a one-time ad hoc approach fails to address required bigger and longer-term improvements to the equalization program.

Honourable senators, some have said, over there in the other place, that it "violates our Constitution," that a ceiling on equalization payments violates the spirit and intent of the Constitution by limiting the capacity of the program to achieve its fundamental objectives. Some have referred to it as a "moral issue," that a weakened program, one that is fundamental to the

notion of equality in Canada and is based on the constitutional principle, raises moral issues.

Obviously, honourable senators, a summary of grievances raised in the other place may be somewhat exaggerated and, perhaps, in some respects, even factually incorrect. However, it provides a basis for reservations about this legislation and about the equalization program generally.

• (1830)

My colleagues Senators Comeau, Buchanan and Kinsella have insightfully articulated the fundamental flaws and the requirements of this legislation and of the equalization program generally, namely: removing and not restoring or alternatively setting at a higher level the ceiling; adjusting the clawback; initiating a comprehensive review of the equalization program; and restoring faith in section 36 of the Constitution Act, 1982, and in the Prime Minister's commitment given to the provinces to lift the cap off the equalization formula and to allow entitlements to grow up to the level of growth in the economy.

Honourable senators, the enormity of the importance of strengthening the equalization program must be viewed in its proper context. Simply put, it is one of the keys to achieving greater self-sufficiency in the seven less prosperous provinces. Specifically, strengthening the equalization program would be a concrete step toward self-sufficiency in the Atlantic region and a further narrowing of the economic gap with the rest of the country.

Prince Edward Island's Provincial Treasurer, Patricia Mella, speaking at a recent meeting of Atlantic finance ministers, placed the Atlantic region's dilemma in stark relief.

Past and current federal constraints on both the equalization program and federal transfers for health care and post-secondary education have severely limited the ability of the region to keep pace with the rest of the country.

As well, the region's finance ministers argue the simple fact that the aggressive tax reduction strategies in more affluent provinces are only adding to the pressures of trying to maintain service levels at competitive tax rates in the less well-off Atlantic provinces.

Empirical evidence supports the argument that strengthening the equalization program would not only have a positive benefit for the Atlantic provinces and for the other recipient provinces but that it would benefit the country as a whole.

Far from being a burden on taxpayers in Alberta, Ontario, and British Columbia, achieving greater self-sufficiency in the Atlantic region and in the other recipient provinces, in the longer term, will lead to less dependency on the nation's current system of federal transfers.



Manitoba's Finance Minister, Gregory Selinger, in his appearance before the Standing Committee on Finance in the other place, argued that the equalization program has served the nation well. He referred specifically to a recent study by Professors Bird and Vaillancourt. That study stated, in part, the following:

...that since the equalization program was introduced in 1957, per capita economic growth in the recipient provinces over the past four decades has been slightly higher than the growth in the non-recipient provinces.

Mr. Selinger concluded:

I think this is a remarkable result that refutes the commonly held notion that equalization is a detriment to economic growth. The short answer here is that equalization does not create dependency. It provides the resources for provinces to grow and diversify their economies to become less dependent on federal transfers.

Finance Minister Martin reinforced this view at the Senate's National Finance Committee meeting on Thursday of last week. He said that equalization does not stand in the way of economic development and that it does not create dependency.

Presumably, the argument that equalization is one determinant of economic growth and that it does not create dependency is the basis for the support across the country for strengthening the equalization program. At last August's Annual Premiers' Conference, premiers unanimously called on the federal government to strengthen its commitment to the equalization program so that the program meets its constitutionally mandated objectives.

At December's meeting of the provincial and territorial ministers of finance, all provinces and territories reiterated their support for the position that the equalization ceiling should be removed from the program.

However, as honourable senators are aware, and as Finance Minister Martin testified at the Senate Finance Committee meeting, a substantial body of opinion exists that suggests that equalization is not fair, let alone strengthening it.

I wish to briefly discuss one aspect of the fairness issue. That is the argument that strengthening equalization is not fair because my region in the Atlantic already receives more than its share of federal transfers, thus implying that it does not need more equalization.

This view is promoted by members of the Official Opposition in the other place. For example, the opposition finance critic was quoted in *The Hill Times* of August 28 last year as saying:

There is a disproportionate concentration of business subsidies in Atlantic Canada.

Another spokesperson for the Alliance is quoted as saying, in part, the following:

...that Atlantic Canada was pretty unique and that it was getting a hugely disproportionate amount of economic development money.

This, honourable senators, is simply not true. The facts do not support this wild assertion. The Atlantic Provinces Economic Council recently released a report, based on 1998 data from Statistics Canada, which concluded that Atlantic Canada was receiving business subsidies, on a per capita basis, that are well below the national average. The lowest per capita recipient provinces of business subsidies were New Brunswick and Newfoundland, followed by Ontario and Nova Scotia.

I guess the point is that old myths die slowly.

We should not let these myths stand in the way of recognizing that my region is moving toward self-sufficiency. However, the gap is narrowing.

As Premier Lord said on CBC television last Wednesday, one of his economic policy objectives is to help create the situation where New Brunswick contributes to equalization and will no longer be a recipient.

That speaks to the larger point that the equalization program should be viewed as a constitutionally protected temporary program to enable provinces that, for one reason or another, have yet to develop or have lost the fiscal capacity to provide reasonably comparable levels of public services at reasonably comparable levels of taxation, as do the more prosperous provinces.

Perhaps, if that body of public opinion that is uneasy with the equalization program saw it in the same light as Premier Lord, as something to get off of, as something to contribute to rather than receive, then public acceptance might improve and perhaps some of the old myths that have grown up, particularly around Atlantic Canada, might quietly fade away.

Honourable senators who attended today's National Finance Committee meeting will agree that Newfoundland's Finance Minister Aylward made an impressive presentation.

Essentially, the position of the Government of Newfoundland and Labrador on Bill C-18 is that the ceiling should be struck from the program; failing that, if a ceiling is imposed, it should be fair and it should be reasonable.

Finance Minister Aylward's position, the position of the other Atlantic Ministers and the Manitoba Finance Minister, based on testimony in the other place is that the ceiling, even after Bill C-18, is not fair. It is not fair and it is not reasonable, and that is a bad precedent that could have dire implications for the future adequacy of the equalization program.

Minister Aylward's testimony attempted to define a fair and reasonable ceiling in view of the government's insistence on maintaining a ceiling.

At a minimum, the ceiling should be re-based to a more realistic starting point...The Government of Newfoundland and Labrador is of the view that at a minimum, the new starting point should be the actual total entitlement for 1999-2000, and I would note that even this minimum, in our view, is more restrictive than the ceiling should be to be consistent with the federal statements on ceiling objectives.

Manitoba Finance Minister Selinger's testimony in the other place supports Newfoundland and Labrador's position.

With respect to Bill C-18, our position is very clear: lift the ceiling. Failing that, re-base it at the actual amount in the year that it was lifted and let it grow consistent with GDP after that.

That would imply a base of about \$10.78 billion as the new starting point for growth. By re-basing it back down to \$10 billion, we lose ground.

The new starting point would be a significant improvement for the provinces. That is the position supported by all 10 provinces, and I think it is important to reiterate that consensus.

In my view, and to paraphrase Minister Selinger, times have changed. The ceiling was first introduced during the period when the federal government had large and growing deficits. We are now experiencing a period of unprecedented surpluses, exceeding \$10 billion. It is going way too far for the federal government to grow its surpluses by restricting or clawing back entitlements from the seven least affluent provinces in Canada.

• (1840)

Again, honourable senators, as New Brunswick's Finance Minister, Norm Betts, testified in the other place:

Concerns about the ceiling and its potential impact are not limited to equalization recipient provinces. At the August 2000 annual premiers conference, premiers joined together to issue a call for the removal of the ceiling on equalization payments, in concert with other fiscal reform.

Minister Betts concluded his testimony in the other place by arguing:

...it is conceivable that under the proposed Bill C-18, entitlements for 2000-2001 could be restricted to a level below that of the 1999-2000 formula-determined entitlements. This would result in the ceiling allowing for negative growth, as opposed to growth, on a year-over-year basis.

This bill fails in this regard.

Much has been said about the need to strengthen the equalization program. Senator Rompkey's remarks were particularly good in this regard, and I agree with him and with my other colleagues that specific aspects of the program require a closer examination.

I know that provincial Ministers of Finance are looking at several improvements to the program, and I can think of no better contribution by the Senate than to give an order of reference to the National Finance Committee to undertake a complete study of equalization in the fall when we return.

Together with the provincial finance ministers and the federal government, the Senate may very well contribute to modernizing the equalization formulation and the program generally. In this way, we will have served our mandate by strengthening our regions while strengthening the country.

[Translation]

**Hon. Roch Bolduc:** Honourable senators, in the context of the problems of equalization payments, I wish to endorse what has already been said, as well as to underscore a number of significant trends reported to us by the witnesses during the committee sessions.

In the Manitoba government's budget, for one, there are certain trends. First of all, in 1961, the federal and provincial contributions to government program expenditures were divided about 50-50. By the year 2000, they were about 30 per cent for the federal government and 70 per cent for the provincial. As far as program contributions are concerned, there is a marked difference over these 40 years.

My second comment concerns the contribution of federal transfer funds to provincial government receipts. In 1980, the figure was about 23 or 24 per cent, while now it is around 15 per cent. Thus, another drop. As for federal government expenditures as a percentage of the GDP, they were around 17 or 18 per cent, and are now around the 12 per cent mark. This tendency also shows up in expenditures. As for the debt to GDP ratio, this has dropped 3.6 per cent over the past seven or eight years.

On the one hand, we have the trends, on the other, the tax points handed over to the provinces at their request. Afterward, the federal debt increased.

What I find striking is the increase in specifically federal programs over recent years. These programs affect a number of different areas, whether industry, innovation through the various foundations, granting bodies, expenditures for agriculture, fisheries, culture or the environment. We find a series of expenditures for specific federal government programs, ones that are not statutory in the same sense as transfer payments are.



I note that the federal government, in the 1960s, built a system which, on the one hand, includes the transfers, especially in the fields of education and health. Indeed, both the federal and provincial governments, considering that these services were essential, took over these fields. The governments had a base for funding them and they also had equalization payments. I note that this part decreases, while government spending increases and in the areas that are linked from time to time to health and education. The Foundations for Innovation, which are subsidies for university teaching to a large extent and, in certain cases, for hospitals and medical research, are the proof.

On the other hand, we find other programs that concern health care more specifically, so we move from a statutory regime where a federal-provincial agreement exists to regimes in which the federal government spends its money as it wishes.

This was the trend in the 1990s compared with that of the 1960s. It is time to look at that properly, otherwise it will lead to inconsistencies, as they are finding in the Government of Manitoba. In fact, we note that they are in a losing position, compared with the other provinces if we add equalization payments to the transfer payments. When the specific subsidies are granted by various government programs, it is generally according to population, which means that the most populous provinces receive more. From the standpoint of equity, it is not fair for a country to do that.

I wanted to draw your attention to these weighty trends, which will soon require a thorough examination of not only equalization payments but of transfer payments, as Senator Rompkey indicated.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, Honourable Senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to, bill read the third time and passed.

[English]

## PUBLIC SERVICE WHISTLE-BLOWING BILL

### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kinsella, seconded by the Honourable Senator Keon, for the third reading of Bill S-6, to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers.—(*Honourable Senator Kinsella*).

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I shall only take a few moments. I rise to begin again, but not conclude, my remarks for the launch of our

debate at third reading on Bill S-6, the whistle-blowing bill. Let me explain.

Honourable senators will have noted that a fair amount of time has elapsed since the Senate adopted the report of the Standing Senate Committee on National Finance. This report contained amendments, supported unanimously in committee and accepted unanimously by this chamber.

The third reading debate is only beginning again today because there have been discussions with the minister most affected by this proposal, namely, the President of the Treasury Board, discussions including the minister's testimony before the National Finance Committee on May 30. We have learned that she is working on a whistle-blowing policy, which policy is to be made public any day now. Naturally, our debate would have greater fullness if we could undertake it having the whistle-blowing policy of the minister known to us during that debate.

I believe that it is the common objective of all honourable senators on both sides of this house to see that whistle-blowing legislation is adopted by Parliament and that we are less preoccupied with the authorship as such.

• (1850)

The bipartisan work that senators from both sides have done on Bill S-6 is underscored by the fact that the sponsorship of the bill is bipartisan and also that the amendments to the bill made in committee were bipartisan.

Furthermore, it is the articulated policy of the Liberal Party of Canada and the articulated policy of the Progressive Conservative Party of Canada, as explicitly stated in our respective election platforms, that we commit to undertake this type of legislation. It appears in the Red Book and it appears in the PC platform.

Also, honourable senators, it is noteworthy that members in the other place representing each party have publicly given support for the legislation. I will go no farther than that and will move the adjournment of the debate.

On motion of Senator Kinsella, debate adjourned.

[Translation]

## PRIVACY RIGHTS CHARTER BILL

### SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill S-21, to guarantee the human right to privacy.—(*Subject matter referred to Standing Senate Committee on Social Affairs, Science and Technology on April 26, 2001*).



**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, as was agreed when the subject matter of this bill was referred to the Standing Senate Committee on Social Affairs, Science and Technology, I move:

That, notwithstanding rule 27(3), this item on the Orders of the Day remain on the *Order Paper* for 15 consecutive days.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

## HUMAN RIGHTS

### BUDGET—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the first report of the Standing Senate Committee on Human Rights (budget) presented in the Senate on June 7, 2001. —(*Honourable Senator Andreychuk*).

**Hon. A. Raynell Andreychuk** moved the adoption of the report.

Motion agreed to and report adopted.

## ASIAN HERITAGE

### MOTION TO DECLARE MAY AS MONTH OF RECOGNITION— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Carney, P.C.:

That May be recognized as Asian Heritage Month, given the important contributions of Asian Canadians to the settlement, growth and development of Canada, the diversity of the Asian community, and its present significance to this country. —(*Honourable Senator Oliver*).

**Hon. Donald H. Oliver:** Honourable senators, I am pleased to rise today to speak to Senator Poy's motion to declare the month of May as Asian Heritage Month. Given the important contribution that Asian Canadians have made to the continued success and prosperity of this country, I certainly commend Senator Poy on this important initiative.

From the very earliest days of this Confederation, people of Asian descent have come to Canada to seek a better life for themselves and their families. In many instances, Asian immigrants left difficult living conditions and travelled long distances in order to come to Canada. As Senator Poy noted in her comments last month, Asians from virtually every major region of the continent have made remarkable contributions to the symbols, institutions and industries that have had profound economic implications for this country and have helped galvanize the federation as we know it. As she rightly noted, Chinese immigrants helped build the Canadian railway. Japanese immigrants fished the oceans and South Asians worked the lumber mills.

Honourable senators, I have long felt strongly that we should do more to recognize the significant contribution that the Chinese and Japanese have made to our country. My work with the APPF and the Canada-Japan group have given me profound insight into the invaluable work they have done in making our Canadian diversity something very special.

In addition to the contributions in helping to build Canada, modern-day Asian successes can be measured through a wide variety of other areas such as the financial service, business and the technological sectors, as well as within mass media and the legal profession. Even the political realm, which historically has been inaccessible to Asians, is starting to become more inclusive in several provinces, most notably British Columbia.

I do have some concerns with the declaration of an Asian Heritage Month and I wish to very briefly discuss some of them with honourable senators.

As senators are aware, Greater Asia is a contested notion in that there is no concrete definition as to where the cultural borders of Asia proper, Asia Minor and the Eurasian land mass begin and end. In fact, the panoply of cultural groups that inhabit Asia is scattered across vast geographic expanses, state borders and political jurisdictions. Some identify themselves as Asians, others as Middle Eastern and some as Europeans. The point is that what is Asian is a constructed notion, difficult to define and a subject worthy of further debate in this chamber.

Asia is one of the world's largest continents and single most ethnically and culturally diverse grouping of humans. This super-continent, so-called, includes several billion people scattered across the Middle East including Israel, biblical lands and Arab states; South Asia including India, Pakistan, Bangladesh and Sri Lanka; Eurasia; Greater China; the Koreans; Japan and the outlying Pacific Islands; and Southeast Asia including Thailand, Burma, Vietnam, Indonesia, Malaysia and the Philippines.

Although people from all of these areas are Asian per se, they do not share a common history, value system or identity. In fact, the history of Asia is often one of conflicting values, national interests and cultural rivalry.

To declare an Asian Heritage Month here in Canada implies that there is a common bond that joins together Canada's Asian community and that there is a shared historical and cultural relationship between all Asians in Canada. I think it is clear that this is not a fact.

My second reservation pertains to Senator Poy's invocation of the American case example of declaring an Asian Pacific American heritage month. I should like to point out that contrary to the model of American citizenship, which is best described as "a melting pot" where immigrants often surrender a degree of their cultural heritage in favour of "the America way" or "American identity," Canada is often times referred to as a "cultural mosaic."

Drawing from this model, Canada's protection of cultural heritage flows directly from its status as a community of communities, referred to today by Senator Cohen in her final remarks, rather than being one large monoculture.

I further submit that although Canada may not have the large Asian studies programs that are seen in the United States, as pointed out by Senator Poy, we live in a country whose practice of multiculturalism is enshrined in legislation and public policy and is reflected in the spirit of the nation. Although I and many of my colleagues in this chamber have pointed out problems in the practice of multiculturalism and equal access in Canada, it is important to give due credit to our non-assimilationist system.

All of this is to say that comparisons to the American case example are tangential to the Canadian experience that encourages cultural communities to maintain their roots and origins in daily life rather than assimilate into the greater community.

Honourable senators, by moving that the month of May be recognized as Asian Heritage Month, Senator Poy champions a very worthy cause. I, too, have a deep respect for the people of Asian countries and I do not hesitate to acknowledge the positive contribution that they have made as immigrants and citizens of Canada. I hasten to add, however, that as a result of our Asian population, Canada's trade with Asian nations has consistently improved. For example, Canada's leading trading partner is the United States, but our second largest trading partner is Japan.

In recent days, International Trade Minister Pierre Pettigrew announced that he would be heading a visiting delegation to India. A few months ago, the Prime Minister headed a Team Canada trip to China. These are all signs that a considerable portion of Canada's national trade interest is shifting from the Atlantic region to the Pacific divide and that Asian countries and peoples will become further involved in our evolving national interest.

I see this as a very positive development, and I am confident that a concerted effort to maximize our relations with Asian countries will result in an acceleration of our national growth.

That said, my third concern pertains to the way in which we choose to mark the accomplishments and contributions of our Asian citizens and establish the foundations for their continued prosperity in Canada. On May 29, 2001, Senator Poy noted:

Honourable senators, while the effect of this motion is largely symbolic, I believe that such symbols are necessary to indicate that our federal government remains committed to encouraging Canada's multicultural communities, both in policy and in practice.

In light of the senator's remarks, I agree that it is necessary for the federal government to adopt the necessary measures to promote our multicultural communities and lay down the foundations for a stronger Canada. It is my contention, however, that the best way to promote greater achievements by our Asian communities is not through cultural promotion, but through identification of core interests that affect all people at the level of public policy. After all, promotion of one's heritage is hollow if other essential components of daily life are allowed to suffer.

One example is that income and payroll taxes in Canada continue to be among the highest in the industrialized world, resulting in a growing divide between the economic disparity between the rich and the poor. This has particular implications on many Asian immigrants to Canada, who escaped impoverishment, in some cases, in their home countries and who seek to improve their station in life in Canada.

A second example is that in spite of advances, Parliament and many provincial legislatures remain out of reach to people of Asian and other minority ethnic backgrounds. Efforts to diversify political office through policies such as proportional representation, however, have failed completely.

Honourable senators, by advocating sound, public policy that is not specific to any one particular community but, rather, seeks to improve the overall quality of life in Canada, we make a tangible, concrete contribution to the continued success of our multicultural, diverse communities.

The United Kingdom, like Canada, embraces the cultural diversity that immigration brings. However, U.K. policy instruments are aimed at ensuring equal access to government and society, rather than at promoting special heritage days. Pursuant to this commitment to substantial as opposed to cosmetic multiculturalism, the main instruments of the United Kingdom's ethnic policies are the Commission for Racial Equality, the Race Relations Act and the Social Exclusion Unit. In that system of government, fostered by the logic of prudence and pragmatism, equality policies are embedded in all central governmental planning and procedures, with the main goal being equality in citizenship.



In conclusion, honourable senators, while I support the general intention of Senator Poy's motion, I am unsure about what the motion will accomplish if adopted at the federal level. Rather, based on the evidence that I have presented, I believe that the federal government can best promote that higher quality of life for Asians and all immigrants to Canada by ensuring sound public policy, structural reform and citizenship and immigration legislation.

On motion of Senator Kinsella, debate adjourned.

## NATIONAL FINANCE

### COMMITTEE AUTHORIZED TO STUDY EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

**Hon. Bill Rompkey**, pursuant to notice of June 11, 2001, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report on the effectiveness of the present equalization policy in ensuring that provincial governments have sufficient revenues to provide reasonably comparable levels of public service at reasonably comparable levels of taxation; and

That the Committee report no later than December 21, 2001.

He said: Honourable senators, I will say only a few words. My comments follow along on the debate on Bill C-18. We have had some discussions across the aisle and there is some agreement that we should study the bill in detail. We have discovered there is a need for the study.

We had testimony this morning which indicated that equalization is a good program but that it is not good enough. The challenge for us is to see where it can be improved. We need to examine it to see how effective or non-effective it is and, perhaps, to make some creative suggestions as to how it might be changed.

Clearly, as we have discovered, equalization is not working as it should. It is not allowing the provinces to provide reasonably equivalent services at reasonably equivalent levels of taxation. We have had items put on the record that reinforce that view.

Honourable senators, a lengthy debate is necessary at this time, but I should like to see the motion passed so that the committee can proceed with its work of examining the equalization program in some depth.

**Hon. Gerald J. Comeau:** Honourable senators, I agree with Senator Rompkey that there has been some discussion to date and that we need to look at this matter further.

I refer to the motion that proposes to examine and report on the effectiveness of the present equalization formula. We do not

dispute, and I do not think any of the witnesses dispute, that a review of the shortcomings of the present equalization program must be done. The evidence of the committee, as suggested by Senator Rompkey, was that the equalization can be more effective and that there may be means of doing that. For that reason, it would be important to examine not only the effectiveness of the program, but also the proposals and ideas for a new formula for potential improvements to the equalization program. We would not want to limit it strictly to an examination of the effectiveness of the program, but we would look at ways to make improvements to the program.

### MOTION IN AMENDMENT

**Hon. Gerald J. Comeau:** Honourable senators, I move, seconded by the Honourable Senator Lynch-Staunton:

That, at the end of line 2, after the word "effectiveness of," the phrase "and possible improvements to" be inserted.

**The Hon. the Speaker *pro tempore*:** Honourable senators, is it your pleasure to adopt the motion in amendment?

**Hon. Senators:** Agreed.

Motion in amendment agreed to.

**Hon. Tommy Banks:** Might I ask a question of the Honourable Senator Rompkey?

• (1910)

**The Hon. the Speaker *pro tempore*:** I am sorry, but it is not in order for Senator Banks to ask a question.

**Senator Banks:** Honourable senators, in that case I will make a statement in respect of the motion. I did not prepare notes, but I did speak this morning with Senator Rompkey, suggesting that, in the shortcomings that he has addressed, there is a factor that is inextricably related to the question of equalization payments. That is the question of sharing resource royalties with the province and, in particular, that thing that is colloquially referred to as "clawback."

I am wondering aloud to the house if it might not be wise to include in the referral to the Senate committee a reference to that question, in addition to the question of equalization alone.

That is my statement, honourable senators. In my opinion, that would be a good idea.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, let me add a statement to that. It would seem to me that, in all studies of equalization, one must look at all the bases of the equalization formula. That would include the question raised by Senator Banks. I think we have covered in the motion, with the amendment of Senator Comeau, everything that Senator Banks would want. I certainly commend his suggestion to those on the committee making the study.



**Hon. Wilfred P. Moore:** Honourable senators, Senator Comeau wants to add the words "and possible improvements to" after the word "effectiveness." I think you must delete the word "of."

**Senator Carstairs:** For clarity, that deletion would make sense, but we could consider that a technical amendment. We can change the word "of" to "to," and we will make that amendment without having to do it formally. It can be done by way of technical amendment.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt Senator Rompkey's motion, as amended?

**Hon. Senators:** Agreed.

Motion agreed to.

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO MEET DURING  
SITTING OF THE SENATE

**Hon. Sharon Carstairs (Leader of the Government),** for Hon. Michael Kirby, pursuant to notice of June 11, 2001, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology have power to sit on Wednesday, June 13, 2001, at 3:30 p.m., even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Motion agreed to.

The Senate adjourned until tomorrow, Wednesday, June 13, 2001, at 1:30 p.m.

# CONTENTS

Tuesday, June 12, 2001

## PAGE

### Visitors in the Gallery

The Hon. the Speaker ..... 1078

### The Honourable Erminie J. Cohen

Tributes on Retirement, Senator Lynch-Staunton ..... 1078

Senator Carstairs ..... 1078

Senator Kinsella ..... 1079

Senator Graham ..... 1079

Senator Murray ..... 1080

Senator Losier-Cool ..... 1080

Senator Robertson ..... 1081

Senator Poy ..... 1082

Senator DeWare ..... 1082

Senator Finestone ..... 1082

Senator Spivak ..... 1083

Senator Pépin ..... 1083

Senator Tkachuk ..... 1084

Senator Grafstein ..... 1084

Senator LeBreton ..... 1085

Senator Gustafson ..... 1085

Senator Prud'homme ..... 1085

Senator Cohen ..... 1085

## SENATORS' STATEMENTS

### National Public Service Week

Senator Poulin ..... 1087

### Canadian Radio-Television and Telecommunications Commission

British Columbia—Decision to Refuse Canadian Broadcasting Corporation's Programming Signal to Service

Francophone Community, Senator Gauthier ..... 1087

## ROUTINE PROCEEDINGS

### Federal-Provincial Fiscal Arrangements Act (Bill C-18)

Bill to Amend—Report of Committee, Senator Murray ..... 1088

### Estimates, 2001-2002

Interim Report of National Finance Committee Tabled,

Senator Murray ..... 1088

### Study of Health Care System

Budget and Request for Authority to Travel—Report of Social Affairs, Science and Technology Committee Presented, Senator Kirby ..... 1088

### Official Languages

Fifth Report of Joint Committee Tabled, Senator Maheu ..... 1089

Budget and Request for Authority to Engage Services—Report "A" of Joint Committee Presented,

Senator Maheu ..... 1089

### Study on Emerging Developments in Russia and Ukraine

Budget—Report of Foreign Affairs Committee Presented, Senator Stollery ..... 1089

### Energy, the Environment and Natural Resources

Budget and Request for Authority to Travel—Report of Committee Presented, Senator Taylor ..... 1089

### Illegal Drugs

Budget—Report of Special Committee Presented, Senator Nolin ..... 1090

### Adjournment

Senator Robichaud ..... 1090

### Farm Credit Corporation Act (Bill C-25)

Bill to Amend—First Reading, ..... 1090

### Canada Corporations Act (Bill S-30)

Bill to Amend—First Reading, Senator Atkins ..... 1091

### Canada-Japan Inter-Parliamentary Group

Meeting from April 30 to May 4, 2001—Report of Canadian Delegation Tabled, Senator Poulin ..... 1091

### Agriculture and Forestry

Study on Present State and Future of Forestry—Notice of Motion to Authorize Committee to Table Final Report with Clerk, Senator Gustafson ..... 1091

### Nelson Mandela

Notice of Motion to Declare Honorary Citizen of Canada, Senator Cools ..... 1091

### Situation of Official Languages in Ontario

Effect on Post-Secondary Training and Health Care, Senator Gauthier ..... 1091

## QUESTION PERIOD

### National Defence

Replacement of Sea King Helicopters—Changes to Basic Vehicle Requirements, Senator Forrestall ..... 1091

Senator Carstairs ..... 1091

Replacement of Sea King Helicopters—Sea State Operation and Ditching Requirements, Senator Forrestall ..... 1092

Senator Carstairs ..... 1092

### Heritage

Canadian Radio-television and Telecommunications Commission—Decision on Francophone Broadcast Programming

in British Columbia, Senator Gauthier ..... 1092

Senator Carstairs ..... 1092

### Delayed Answers to Oral Questions

Senator Robichaud ..... 1092

### Prime Minister's Office

Request for Statement on Collective Cabinet Responsibility, Question by Senator Murray.

	PAGE
Senator Robichaud .....	1092
<b>Industry</b>	
Efforts of Government to Establish Shipbuilding Policy. Question by Senator Oliver.	
Senator Robichaud .....	1093

## ORDERS OF THE DAY

<b>Motor Vehicle Transport Act, 1987 (Bill S-3)</b>	
Bill to Amend—Message from Commons. ....	1093
<b>Canada Business Corporations Act</b>	
<b>Canada Cooperatives Act (Bill S-11)</b>	
Bill to Amend—Motion to Concur with Amendments from Commons Adopted. Senator Carstairs .....	1093
Senator Kinsella .....	1093
Senator Prud'homme .....	1093
Senator Kirby .....	1094
Senator Oliver .....	1095
Senator Nolin .....	1096
Senator Tkachuk .....	1097
Senator Gauthier .....	1097
Senator Lynch-Staunton .....	1097
Motion in Amendment. Senator Tkachuk .....	1098
Senator Carstairs .....	1098
Senator Nolin .....	1098
Senator Bolduc .....	1099
Senator Kirby .....	1099
Senator Prud'homme .....	1099
<b>Canada Foundation for Sustainable Development Technology Bill (Bill C-4)</b>	
Third Reading—Debate Continued— Point of Order—Speaker's Ruling. The Hon. the Speaker ....	1099
Senator Carstairs .....	1101
Senator Lynch-Staunton .....	1103
Senator Kinsella .....	1103
Senator Tkachuk .....	1104
<b>Sales Tax and Excise Tax Amendments Bill, 2001 (Bill C-13)</b>	
Third Reading. Senator Kinsella .....	1104
<b>Tobacco Tax Amendments Bill, 2001 (Bill C-26)</b>	
Third Reading. Senator Oliver .....	1104
Senator Nolin .....	1105
<b>Income Tax Amendments Bill, 2000 (Bill C-22)</b>	
Third Reading. Senator Tkachuk .....	1105
<b>Eldorado Nuclear Limited Reorganization and Divestiture Act</b>	
<b>Petro-Canada Public Participation Act (Bill C-3)</b>	
Bill to Amend—Third Reading. Senator Kinsella .....	1106

	PAGE
<b>Parliament of Canada Act</b>	
<b>Members of Parliament Retiring Allowances Act</b>	
<b>Salaries Act (Bill C-28)</b>	
Bill to Amend—Second Reading. Senator Carstairs .....	1107
Senator Joyal .....	1108
Senator Grafstein .....	1109
Senator Murray .....	1110
<b>Farm Credit Corporation Act (Bill C-25)</b>	
Bill to Amend—Second Reading. Senator Tunney .....	1111
Senator Robichaud .....	1113
Senator Kinsella .....	1113
Senator Taylor .....	1113
Senator Milne .....	1113
Senator Andreychuk .....	1114
Senator Gustafson .....	1114
Referred to Committee. ....	1114
<b>Agriculture and Forestry</b>	
Committee Authorized to Meet During Sitting of the Senate. Senator Gustafson .....	1114
<b>Social Affairs, Science and Technology</b>	
Committee Authorized to Meet During Sitting of the Senate. Senator Robichaud .....	1114
<b>Federal-Provincial Fiscal Arrangements Act (Bill C-18)</b>	
Bill to Amend—Third Reading. Senator Rompkey .....	1115
Senator Beaudoin .....	1115
Senator Robertson .....	1116
Senator Bolduc .....	1118
<b>Public Service Whistle-Blowing Bill (Bill S-6)</b>	
Third Reading—Debate Continued. Senator Kinsella .....	1119
<b>Privacy Rights Charter Bill (Bill S-21)</b>	
Second Reading—Order Stands. Senator Robichaud .....	1120
<b>Human Rights</b>	
Budget—Report of Committee Adopted. Senator Andreychuk .....	1120
<b>Asian Heritage</b>	
Motion to Declare May as Month of Recognition— Debate Continued. Senator Oliver .....	1120
<b>National Finance</b>	
Committee Authorized to Study Effectiveness of Present Equalization Policy. Senator Rompkey .....	1122
Senator Comeau .....	1122
Motion in Amendment. Senator Comeau .....	1122
Senator Banks .....	1122
Senator Carstairs .....	1122
Senator Moore .....	1123
<b>Social Affairs, Science and Technology</b>	
Committee Authorized to Meet During Sitting of the Senate. Senator Carstairs .....	1123





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CANADA

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• 37th PARLIAMENT

• VOLUME 139

• NUMBER 47

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OFFICIAL REPORT  
(HANSARD)

Wednesday, June 13, 2001

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Wednesday, June 13, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of Marguerite Charlebois. Marguerite has worked in the Parliamentary Restaurant for 20 years and will be retiring on June 30, 2001.

[English]

Welcome, Marguerite. We are pleased to receive you here today and to show our appreciation for all the good service you have given to us over the years.

### THE HONOURABLE MABEL M. DEWARE

#### TRIBUTES ON RETIREMENT

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, Mabel DeWare's public career goes back to 1978 when she was first elected to the New Brunswick legislature. She served in government there until 1987 with great distinction, first as Minister of Manpower and Labour, then as Minister of Community Colleges and finally as Minister of Advanced Education. The political skills she gained there were put to good use as soon as she arrived in the Senate. She has been a member of a number of our committees, including chairing the Standing Senate Committee on Social Affairs, Science and Technology and, most notably, served on committees examining euthanasia and assisted suicide, post-secondary education, and child custody and access.

Senator DeWare's community activities have been just as varied, but her contribution to curling, both on and off the ice, including skipping the team that won the Canadian Ladies' Championship in 1963, led her to be inducted into the Canadian Curling Hall of Fame in 1986.

Long after all her achievements have been forgotten, if they ever can be, the Mabel DeWare I will always remember is the one who exudes so much love, so much kindness and so much caring. Not one of us who sat here for the first time in September 1990 would ever want to relive the tumultuous session in which the Senate engaged for two months, and nor would we wish it on anyone else. Coming together in an atmosphere of turmoil and

constant disruption created a bond of friendship and even affection among the newcomers that has lasted to this day.

The one person who stood out with her warmth, good humour and always sunny disposition was Mabel DeWare. No matter how bad tempered and crotchety one was after long and frustrating attendances during the GST debate, just a short visit and a quick chat with Mabel were enough to make one more even tempered.

Mabel has always taken a tremendous personal interest in each and every one of her caucus colleagues. I have no doubt that Mabel is privy to more personal joys and sorrows of her colleagues than even some of their families. She is simply the person to whom one goes because she is simply Mabel.

As whip, she handled her responsibilities with firmness mixed with kindness. No matter what function she was called on to carry out, Mabel never gave up compassion for conscription, and it worked. Hers was not an iron hand in a velvet glove; it was a velvet hand in a velvet glove, and the results have been exemplary.

As you leave us, Mabel, I extend to you, Ralph and your marvellous family, my warmest best wishes for many happy years together. To no other senator can I say this without fear of attracting suspicion at home: Mabel, I will always love you.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I am honoured today to speak on the retirement of a colleague and friend, the Honourable Senator Mabel Margaret DeWare. She has served her side, as I served mine, first as Deputy Leader and then as Leader of the Government in the Senate. I have been privileged to work with her.

As I became more familiar with not only Mabel the person but with her capable and proficient work as opposition whip over the years, my admiration for her professionalism increased.

Perhaps I got to know Mabel best when we sat on the Special Senate Committee on Euthanasia and Assisted Suicide. Senators who did not sit on that committee can imagine a room in which sat not only Mabel and myself but also Senator Corbin, Senator Beaudoin and the former Senator Lavoie-Roux. It would not be hard to figure out that it was not always a convivial atmosphere. The arguments were pretty tough on occasion, and it was always Mabel who was able to return us to calm; it was always Mabel who was able to assure everyone their point of view was being carefully considered and that we were not interested in a result report which favoured one side or the other but in a balanced presentation of the issues to Canadians. She was an extremely important voice in all of those deliberations.

• (1340)

Of course, we know of her great activity as a sportswoman, particularly as a curler, and that she was a member of the team that Senator Lynch-Staunton referred to and, as a result of that, became a member of New Brunswick Sports Hall of Fame.

She has, of course, received awards not only for curling but also for her public service. For that, we take great pride in her accomplishment because she has been one of us.

I must say, honourable senators, that there are two things about Mabel DeWare that I will never, ever forget. The first, of course, is the blue Santa Claus suit. I do not think any of us could ever forget that. None of us in our wildest imaginations thought of a blue Santa until we saw Mabel epitomizing one. The other thing, if I am not mistaken, is that each and every year she would remove five red lights from the Christmas tree and replace them with five blue lights. This incident always occurred just after the Progressive Conservative Senate Christmas Party. We knew someone had been up to no good, and then I had the hint passed on to me that it was Mabel who kept those blue lights in her desk and who would each year remove five red lights and replace them with her Conservative blues.

Mabel, it has been a true privilege to have sat in the chamber with you, to know of your accomplishments in the legislature of the Province of New Brunswick and to have experienced your accomplishments here in the Senate of Canada. I would like to congratulate you on your years of dedicated service. I am confident that your children — Kimberly, Peter, Michael and Joanne — as well your grandchildren have witnessed that firsthand. They know the important contributions you have made and know that you leave this chamber not just with the support of your colleagues on that side but with the love and affection of your colleagues on this side.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, the Latin classicists teach the following: *fortiter in re, suaviter in modo* — that is, “gentle in manner, but forcible in deed.” These are the words that come to mind when I think of the Senate opposition whip. Beneath that gentle and caring maternal expression lies the most efficient and effective directress of operations. Her cheerful readiness assured that our members on this side would respond to the call of the whip and be in our places against important divisions.

In paying tribute today to Senator Mabel DeWare, we single out a distinguished Canadian, an outstanding New Brunswicker, and a counsellor and guide to so many within the parliamentary precincts and across the land.

The province of New Brunswick has been the beneficiary of the many contributions made by this outstanding daughter of our province. Whether as a member of the legislative assembly, a minister of the Crown, a senator or a national curling champion, Mabel DeWare has made New Brunswick very proud.

Honourable senators, it is noteworthy that Senator DeWare numbers among that generation of Canadian women who were pioneers in public life, a woman who, by so many individual achievements, is such an excellent role model for those who are willing to develop their capabilities and willing to work hard and who demand to be judged not by gender but rather by the content of their character and their record of achievements.

Our retiring whip is from Moncton, on the banks of the Petitcodiac River. She has been gentle with us, like the general flow of that river; however, honourable senators, equally like the rush of the tidal bore she can muster up great energy and enthusiasm to foil the strategies and manoeuvres of those Langevin Block planners here on the banks of the Ottawa — all of which, honourable senators, was demonstrated during the hoisting of Bill C-78, the Public Sector Pension Investment Board Act and, of course, the clarity bill debates.

Senator DeWare will leave a gap in our ranks that cannot be filled; or, as one might have heard spoken in the Senate of ancient Rome, *hiatus valde defiendus* — a gap deeply to be regretted.

God speed to you, Mabel, and to Ralph.

**Hon. B. Alasdair Graham:** Honourable senators, in recent days many of us have thought of the imminent retirement of some of our colleagues and friends.

The life and times of Senator Mabel DeWare have been full of contributions to her province, her country, her family, her colleagues, and her many friends.

I first heard of Mabel DeWare, not through politics, but as a fledgling, part-time sports broadcaster in Nova Scotia, when I followed Mabel's spectacular successes in the curling rink in neighbouring New Brunswick.

Several days ago, I perused the Mabel DeWare rink Web site and thought back to 1963 when, with Mabel as skip, members of her superb team became the New Brunswick and Canadian ladies curling champions. I think many of us are proud of the Canadian contribution to this wonderful sport, as we know that many of the dominant international curlers have learned from Mabel DeWare and make their homes in this country.

It is always a thrill to watch the exquisite timing of an accomplished curler in pressing forward that 44-pound stone, drawing it back, and transferring the momentum of the action with the curler's perfectly straight slide down the ice toward the target. Like Mabel herself, that is real poetry in motion, honourable senators, because at the moment of the release the curler is in perfect balance, with a slight twist delivered to the handle to produce a rotation I believe about two and one-half times. Can you not just see her? Can you not sense the hush of the crowd and then hear the roar, as the ever-popular Mabel DeWare executes that perfect twist?



I digress, just a bit. Whether we are looking on or off the rink, many of us would agree that Senator DeWare has brought a lot of that exquisite timing, balance and poetry to her career as a provincial minister, as a federal parliamentarian, as chair of international delegations, as a community worker, as a wife, mother and grandmother, and as a much-respected whip of the official opposition in this chamber.

No matter how one looks at it, this remarkable woman has been at the forefront of change in politics and in sports for decades.

I must say that, as I thought about her distinguished career, I thought about our young people and the national pride, courage and pursuit of excellence that are all a part of the wonderful world of sport. I thought about the hours of training and discipline, about the agony of loss, the ecstasy of winning and the exhilaration of a job well done.

• (1350)

I thought about the long and proud history of curling in this country and the sportsmanship and the tradition that goes along with it, and the spirit of the game and comradeship that dominates the proceedings at bonspiels. Mabel DeWare has brought the finest elements of this wonderful game to her lengthy career in political life. Senator DeWare has indeed brought excellent strategic sense, fine political balance and timing, great leadership, dedication and tolerance to the Senate of Canada.

When I had the privilege of helping to provide a leadership role in this chamber, I also had the privilege from time to time of dealing, should I say indirectly, with Mabel. Whether it was a wink, a smile or a nod, you always knew where you stood. That wink, smile or nod could be relied on absolutely.

Here is to the skip who became the whip, with many thanks for her fairness, her honesty, and her friendship, and, most of all, for a job well done. Happy retirement to you and your family, dear friend.

**Hon. Erminie J. Cohen:** Honourable senators, in her humility and her modesty, our colleague and friend Mabel does not realize how much we love her. She has earned our respect for her initiative and enthusiasm, her generosity and commitment. Her success as organizer is par excellence. Mabel gives more than she must, and she gives no thought to recognition or compensation other than the sheer satisfaction and joy she gets from simply doing.

To every position she holds, she gives everything she has. Mabel is a people person. Her warmth, friendly disposition, the twinkle in her blue eyes and the smile on her lips endears her to everyone. She loves a good party, enjoys a good laugh and tells a mean joke.

The following precept in good leadership is a reflection of our colleague Senator Mabel DeWare, and what I believe to be the

key element to her success and popularity: Build a bridge, not a barrier; make a friend, not a fuss; find a cause, not a controversy; be a cheerleader, not a critic; and, seek a solution, not a stand-off.

Mabel, enjoy your retirement with Ralph and that wonderful family of yours. Your many friends here will miss you, but your friends in Moncton, Shediac and Florida will be the beneficiaries. They will have you back full time. We wish you good health, contentment and many happy times.

[Translation]

**Hon. Rose-Marie Losier-Cool:** Honourable senators, it is my pleasure to pay tribute to a great lady from New Brunswick. I met Senator De Ware in the Senate and as a member of the Special Senate Committee on Post-Secondary Education.

[English]

As a former school teacher in New Brunswick schools, I could appreciate and share Senator DeWare's experience and expertise in the educational field. You can image that Senator Bonnell was very lucky to have both of us serving on his Special Senate Committee on Post-Secondary Education.

Last fall, Senator DeWare and I were models in a fashion show put on at the Senate for the United Way campaign. Along with His Honour and Senator Lynch-Staunton, Leader of the Opposition, if I remember well, we were chosen Models of the Year.

Senator DeWare was first elected to the New Brunswick legislature in 1978 and reelected in 1982. She served as Minister of Labour and Manpower from 1978 to 1982, Minister of Community Colleges and Minister of Advanced Education.

Mrs. DeWare's community service includes being a United Way worker for 25 years in the Moncton area, past president of the Moncton YWCA, and she served as member of the Moncton Family YMCA Board of Directors.

Mabel DeWare is ready for an enjoyable retirement. She enjoys curling. As was mentioned she was inducted into the Canadian Hall of Fame as curler/builder in 1986.

The *Atlantic Advocate* in February 1988, commenting on that quarterly event, said of Mabel DeWare that once a champion, always a champion, even a champion in baking cookies. She plays golf, enjoys bridge with her friends and bakes delicious cookies. What more do you want in retirement?

Mabel, I wish you a nice retirement with your husband and with your children and grandchildren. Maybe we will meet on the beach in Shediac. We love you.

**Hon. Lowell Murray:** Honourable senators, the burdens on a whip, whether in government or opposition, are considerable, and the demands on the whip are as varied as the different and sometimes eccentric personalities that comprise a party caucus.

The nature of the job changes somewhat, depending on the balance of forces in the chamber. The tensions are obviously greater on a government whip trying to get legislation through with the help of a tiny majority, or on an opposition whip trying to amend or block that legislation in the same circumstances. However, even a clearly outnumbered opposition, which the Progressive Conservatives are at present, presents a challenge to its leadership and daily to its whip.

A fair division of labour among a dwindling band of members is only the most obvious of the whip's problems. Maintaining the commitment of individual senators to the collective role, preserving solidarity, building morale, these are tangible necessities often achieved by intangible qualities of mind, heart and spirit on the part of the whip.

No one could be better suited by character, temperament and personality to this crucial role than Senator DeWare. No one could have served us better these past few years. It is important to remember that in serving us so well she served also the Senate, our parliamentary system and, ultimately, Canada. She leaves here with our respect and gratitude.

**Hon. John G. Bryden:** Honourable senators, I would like to take a minute to say a few words about my fellow New Brunswicker, Senator DeWare.

In the 30 years that I was involved in politics in the province of New Brunswick, Mabel was involved as well. Although on opposite sides, I think we observed each other and followed each other's career. We had some contact through our careers when Mabel was Minister of Labour. It was to Mabel that I, as a practising labour lawyer, would have to send a formal application requesting a conciliation board. She either granted it in her capacity or she denied it, and, depending on whether I was representing a strong union that wanted to really strike or a weak union, so would go my wish that she do one or the other.

She, in all of her roles in government for the Progressive Conservative Party in New Brunswick, discharged her responsibilities admirably and with a great deal of respect. I, in all humility, like to claim a little bit of credit for freeing her up in 1987 to be available for appointment to the Senate.

As Senator Lynch-Staunton was speaking, I could not help but think about the situation into which Senator DeWare was thrust with her appointment to the Senate.

• (1400)

I was observing those goings-on from afar, as were many of us in the country. What was going on in this chamber was referred to as many things — probably the most charitable was that it was called was a circus. I understood very well why at that circus they needed to call in the clown because Mabel DeWare is a certified clown. I do not know whether that is the part of her personality that has made her such an effective politician and certainly a wonderful participant in this chamber.

I would like to add my good wishes, Senator DeWare, to you, to Ralph and to your family, as you go forward. Having been neighbours for so many years in the province of New Brunswick, in the County of Westmorland, we will be seeing each other again.

[Translation]

**Hon. Gérald-A. Beaudoin:** Honourable senators, a number of colleagues have referred to Senator Mabel De Ware's attributes. She has acquitted herself most ably of her duties as senator and whip. Two aspects of her personality drew my attention in particular.

First, Senator De Ware is a great sportswoman. She received the Queen's medal in 1982 for her contribution to sports. Inducted as a member of the New Brunswick sports hall of fame in 1976 and of the Canadian curling hall of fame in 1987, Senator De Ware is no ordinary individual.

The second aspect of her personality, and not the least, that still catches my attention, is her vitality. Senator De Ware is full of life. She bubbles over with enthusiasm. She is naturally optimistic. This to me is a considerable asset, and I wanted to mention it. As we often say in French, she has a *joie de vivre*. She has the secret. This is certainly one of the most wonderful gifts nature can give an individual. It is always a pleasure to be with people who spread joy. I wish her a happy retirement and many, many years among those near and dear to her.

[English]

**Hon. Richard H. Kroft:** Honourable senators, I appreciate the opportunity to say a very few words in tribute to our colleague Senator DeWare. In doing so, I want not to presume on the time and attention of those whose relationship with her is rooted in many years of friendship and in the special bonds of shared political commitment and experience. I have only been here for three years, but for more than half of that time I have been keeping company with Mabel DeWare.

In November 1999, she and I became chair and deputy chair of the Standing Senate Committee on Internal Economy, Budgets and Administration, and in this Parliament we have been chair and deputy chair of that same committee. In the 19 months that we have worked together, we have become good friends. I have learned a great deal from her. Her understanding of public service and of this place, what it requires of us and the opportunity it provides, is profound. In those 19 months, I have been an eager student. Most important of all, everything about Mabel DeWare confirms that honesty, fairness, intelligence and decency, together with an unrelenting sense of good humour, are keys to success in this place as in all others.

Thank you, Mabel, for the good times we have had working together and for your friendship. I will miss you.



**Hon. Mira Spivak:** Honourable senators, yesterday and today are evidence of the depth of the talent pool from New Brunswick. I say that not with envy but with admiration. I have great admiration for the public service given by Mabel DeWare, a woman of high intelligence and extraordinary organizational skills. I want to personally thank Mabel for all her kindnesses. I am one of the caucus members who has been a recipient of her kindness and her attention, which I know she has given to everyone, and I thank her sincerely. I also thank her for the memories: the blue Santa Clauses, the off-colour stories told with style and panache, the lobster dinners and the dinners at which Mabel entertained — you had to be there; it was wonderful.

We must remember that Mabel assumed the job as whip after that gentle soul Orville Phillips. I had some experiences with Orville Phillips, and they were not the same. When I think of Mabel's tenure as whip after Orville Phillips, I am reminded of what Ginger Rogers said to Fred Astaire: "I can do anything you can do, but in high heels and backwards."

So, Mabel, thank you again.

**Hon. Peter A. Stollery:** Honourable senators, I would like to pay my respects to Senator DeWare with whom I have worked for some time now on matters concerning the Internal Economy Committee and the Subcommittee on Budgets. I will miss her integrity and common sense. She has been a fine person to work with, and I wish her well in her retirement.

**Hon. Brenda M. Robertson:** Honourable senators, after all those accolades, Mabel, what can one say? One prepares notes but the notes are all taken and that is rather unfair. You have been in that position yourself.

Honourable senators, Mabel and I have spent a lot of time together; we are old friends. Senator Simard is unable to be here, but my remarks include him. Some of you may know that Mabel, Senator Simard and I were in the provincial legislature and Government of New Brunswick at the same time, and we had fun. We know Mabel so well we could regale you for hours with some of the situations she got herself into over the years — I won't say a word.

Some of my colleagues have spoken about Mabel's abilities as an athlete and as a curler. All New Brunswickers are very proud of Mabel's accomplishments at the curling rink. I cannot quite compare her to Colleen Jones, because Mabel was her championship in the days before the Worlds. Nevertheless, I am sure Mabel would have won the Worlds had there been one at that time.

Prior to her appointment Senate, Mabel and I were colleagues for nine years in the New Brunswick provincial legislature with Senator Simard. She was the second woman appointed to the cabinet, along with 17 men. You know who was loudly applauding that appointment to cabinet, after nine years of being by myself.

• (1410)

I remember her first cabinet meeting well. We were standing to the side of the executive council room by the coffee pot when I noticed that Mabel was anxiously counting heads and looking around for cups and saucers. I said, "We are equals around here. You are not expected to serve the men coffee." She did it anyway, as many of our caucus members know. She is quite willing to do that.

She demonstrated through her outstanding work as Minister of Labour and Manpower, Minister of Community Colleges and Minister of Advanced Education that we were not equals around that cabinet table. We both knew that we were a bit better than the men, at least as good as any rate.

Mabel has the special gifts of devotion to her responsibilities and compassion for the people with whom she dealt. Those two things set her apart from her provincial cabinet colleagues because most of us did not quite have that depth of compassion and understanding.

It has often been said by people who know the worlds of both curling and politics that skipping a curling rink was excellent preparation for Mabel's political career. Senator Graham gave a "symphony" on curling, but I should like to repeat several things that I said at our caucus dinner the other night.

We must consider the duties of the skip: always takes full credit for all games won; fairly distributes blame between all other members of the team for all games lost; sometimes gives indistinct signals to the team when they are preparing to deliver a rock in order that the skip's mistakes never become obvious to the spectators; and must develop a very loud voice that will scare the bejabbers out of the lead and second when ordering them to sweep. That prepared Mabel very well. She has always in her curling life been counting rocks. I would suggest that quite often she has been counting rocks in this house, especially during the past few years.

**Senator Atkins:** On both sides.

**Senator Robertson:** Yes, on both sides.

Some of my honourable colleagues have mentioned the involvement of Mabel in special Senate committees. If it had to sum up Mabel in a single expression, I would say that Mabel likes everyone and everyone likes Mabel. She has the remarkable ability of just being herself. In her public life, she has proven that one can pursue an important objective without taking oneself too seriously.

Honourable senators, Mabel and I go back a long way. We shared living accommodation in Fredericton, New Brunswick, for a long time, but I will not go there.



We all know that Mabel will be missed around here. Michael and Joanne, please tell the rest of your family that we shall miss her very much in the Senate.

Mabel has a large family. Some senators might have met members of that family last Canada Day. She has dinners for 20 or 30 family members. I could fit my family on the back porch. I have always thought it would be fun to have that large family around.

Mabel, there will be fewer of those incomparable anecdotes, those outrageous jokes that you tell, and those happy times. We wish you a fond farewell. Remember, I live across just the bay. You are not going away, but you are coming home.

**Hon. Bill Rompkey:** Honourable senators, I am surprised no one has mentioned the candies because that is how I will remember Mabel. When I first came to the Senate, I was on the eighth floor of the Victoria Building. I have moved to the seventh floor. In another 20 years, I will make it all the way down.

Senator Cohen was across the hall and Mabel was down the hall. As I walked down the hall, there was always a bowl of candies in Mabel's reception area. It drew me in. It was like a loss leader in a supermarket. It drew me into her office. However, you find more to the supermarket than the loss leader. Perhaps Mabel is like that chocolate covered nugget in the Ganong chocolate box that is attractive on the outside but has a substantial core as well. That is my metaphor for Mabel.

Then I discovered there were perhaps other refreshments in the office. We will not go into that.

Mabel was one of the first Tories that I met in the Senate. In Newfoundland, politics is a blood sport. From the time that we are born as Liberals, we are taught that Tories are the incarnation of evil, the enemy, and that we must fight them. I fought them all my life.

Then I met Mabel. I was like Paul on the road to Damascus. I thought, "That woman is not the enemy; she cannot be the enemy." Then I discovered that perhaps there were other Tories who were not evil, but as Al Graham said, I must not digress.

Mabel, my memory is of the candies, the grace, the good humour and our experience together in Internal Economy, as well. In that committee, you showed that partisanship is not the most important thing. Dealing with people's problems and this chamber are the most important things. That can be done apart from party affiliation.

Even if you leave, Mabel, leave the legacy — leave the candies in the reception area. Have a good time!

**Hon. Gerry St. Germain:** Honourable senators, Mabel will not be leaving because, believe me, her spirit will live on forever.

Of all the people with whom I have worked in the Senate, on both sides, she stands out for her sincerity, the excitement she creates around her work, her unpretentious ways and, most of all, her sense of humour.

Mabel, you are accomplished and competent. You are a golfer, but I understand that you are a better curler.

All of the things that have been said about you cannot truly describe the quality of your character. I have met your husband. I can see why he looks so good because he has lived with such a tremendous surrounding all his life.

I will miss your jokes, Mabel. I want you to know that we have the finest golf courses in the world in British Columbia, and you are welcome to come and share them with us.

Good luck and God bless you.

**Hon. Norman K. Atkins:** Honourable senators, Mabel DeWare has received many wonderful tributes today, all of which are well deserved. I can only add that her cheerful outlook, boundless less energy and enthusiasm could not have failed to have had an effect on me. She has been truly an inspiration.

I have had the advantage over many of those in this chamber since she has been my seatmate for many sessions. I have always marvelled at the way in which she has conducted herself as a whip, except for her choice of caterer for caucus lunches.

The only positive factor about her retirement is that I will get back half of my Senate desk. Since she has been my seatmate, she has seconded one-half of my desk area and sprawled out all of her papers.

Being involved in politics, whether provincial or federal, requires an incredible amount of energy. However, what I found most significant about this remarkable woman was her spirit and positive attitude. That had a tremendous effect on all of us regardless of the venue. Mabel seemed to carry out her duties in such a way that you would think all of her activities were effortless.

● (1420)

Mabel, as you become a permanent snowbird and fixture on the golf course, may you improve your handicap so that you can become a champion at golf, as you were a champion curler and senator. To Mabel, Ralph and family, I wish you all the happiness in your retirement for many years to come. We will certainly miss you in this place.

**Hon. Marcel Prud'homme:** Honourable senators, people say that when everything has been said, one should sit down and bow, so I will be very brief. That does not mean that I do not like Mabel. Is there a nicer word in French than "ma belle"?

I have a special mission to accomplish on behalf of all the pages. They are all crying and heartbroken. They say, "Who is going to give us cookies?" They specifically mentioned peanut butter and chocolate chip cookies. If anyone would like to step in to fill the void — perhaps Senator Poulin — please feel free to do so. The pages insisted that someone should thank Mabel warmly because with her they felt great security. They felt happy, loved, adopted and secure. They asked me to thank Mabel on their behalf. I join with them and hope that in the future when Mabel visits us, she will meet the new pages. Who knows? Maybe she will again bring peanut butter and chocolate chip cookies.

**Hon. J. Michael Forrestall:** Honourable senators, I wanted only to make a minor correction to the wonderful record of Mabel's achievements here today. I was one of those who came to the Senate in 1990, in September of that year. Senators will recall that it was a rather stormy session.

I have known of Mabel's contributions. I have been a beneficiary of her kindness, of her thoughtfulness and of her wisdom. She is a hard taskmaster, but it was always a pleasure to say, "If you need a live body, you know where to find it." I have wondered about some of the others around us from time to time.

I wanted to correct the record and say this: Among the fraternity of golfers, there is an enormous amount of pride when someone comes into the nineteenth hole with a big grin, having just fired an ace, a hole-in-one. Everyone cheers and applauds, and of course someone might buy a round of drinks.

Far above the sense of pride that comes with having shot an ace is when a golfer comes into the pro shop, leans on the counter and says, "You know, I am 74, and I just shot a round of golf that matches my age."

Earlier this morning, we talked about a caucus trophy for golf tournaments, although in the winter it is difficult to play. I get the scores from the members of our caucus and anyone else who wants to submit one, following which I ask them for their handicap. Mabel shot 108.

Ralph, you won't tell the truth about this, will you?

She said it was not a very good round. Her handicap is 36, leaving a net 72. She is 74 years old. Believe me when I say that nothing gives a golfer greater pride. You cannot shoot your age at 20, 30 or 50. Tiger Woods may be doing it in his late 50s. However, when you card a score two strokes below your age, you have achieved everything.

Honourable senators, Senator DeWare has shot not just her age in service to Canadians, but she has beaten that by two strokes.

**The Hon. the Speaker:** Honourable senators, before calling on Senator DeWare, I should like to draw your attention to the

presence in the gallery of Senator DeWare's son, Michael DeWare, of her daughter, Joanne Blight, and as well, of course, of her husband, Ralph.

**Hon. Mabel M. DeWare:** I have to be like Senator Cohen yesterday, honourable senators. Wow. Where does one begin when you have all these people paying tributes? I believe Senator Molgat was right when he said it was time we did something about this.

I rise to reflect on the very special memories this place holds for me and to express my appreciation for all the people that make this place happen. I thank you from the depth of my heart for those tributes today. I am pleased to know they are all true.

There have only been 836 senators appointed to this place since Confederation, and I find myself in awe that I could be one of that prestigious group, as are all of us. It is amazing, considering that there are 30 million people in Canada today.

There are many special occasions in one's lifetime — when you turn 16 or get married or have your first child or graduate. Two of my special occasions were in politics. One was the day a month after I was elected to the New Brunswick legislature and former Premier Richard Hatfield called me up and said he wanted me to be Minister of Labour for the Province of New Brunswick. I wish you could have seen my face at that point. I was absolutely shocked. I entered the political scene. Brenda Mary became my political mentor. She had years experience as the only woman in the New Brunswick legislature. We roomed together for over six years before she was appointed to this place. I also learned a few lessons and took a few sideswipes from New Brunswick's French lieutenant, and I thank them both for their remarks today. They were in the Senate before I got here. I will retire this month, and, believe it or not, they will be here after I leave. That tells you something about these two politicians.

The second special moment was the day I received a call from the Right Honourable Brian Mulroney. Fortunately, Marjory had called me first and told me to keep my head up and stay close, that I was about to receive a phone call. I said to Ralph "What do you suppose that is all about?" He said, "I am damn sure he is not going to send you to Kuwait." I got the phone call and was told not to tell anyone until caucus had been told.

Dare I state my thoughts about the dreaded letters "GST"? Arriving here as one of the controversial GST senators, but legally, certainly gave meaning to the expression "baptism by fire." In the end, though, despite how rough the filibuster was and how hard we worked — someone said two months but I thought it was three months, 24 hours a day — I believe we developed a special camaraderie among us that has lasted 10 years. The group that was appointed at that time and was sworn in around September 23, including Senator Forrestall, call ourselves the class of 1990, and we still enjoy an evening together once a year. It has been fun.



I especially want to thank the leadership at that time. God bless Senator Murray and Senator Doody for their guidance and leadership. Of course, there was Orville, whose shoes are still pretty hard to fill.

Honourable senators, I was privileged to work with many of you in some of the most contentious and emotionally charged debates, such as euthanasia and assisted suicide, and custody and access. Much of the testimony was heart wrenching, but we worked together, often crossing party lines to find acceptable solutions to complex issues. I feel proud of the report, "Of Life and Death." It has become part of the curriculum of many universities and that under Senator Carstairs' leadership palliative care has become a priority.

• (1430)

Humour, of course, has carried us through some of the tougher times. I remember one evening, after countless long days spent writing the report on euthanasia, when we met to discuss titles. "To Be or Not To Be" and "Life is a Terminal Disease" were just a few of the giddy suggestions by that weary crew.

Parliament is truly a place where people from many disciplines across the country work together to improve the lives of Canadians. To my fellow senators who were here when I arrived, who have been appointed since and who have left before me, it was exciting and motivating to work with and learn from all of you.

I would like to express my appreciation to the support and administrative staff. Each and every one of you has made my job as senator possible. I must say that after working with the Finance personnel, the Human Resources personnel, you realize the magnitude of the job they must do to run this place.

We also have an ever vigilant security staff. There was a mention earlier about me being a clown. One night there was a Christmas party that included the children. I dressed up in my clown suit, which belonged to an organization called Clowns Canada. I headed out to the children's party, but Senator Charbonneau was having a party for senators and staff on the same night so I decided to make an appearance. I managed to get by a couple of the security staff, but then, as I got closer to Senator Charbonneau's office, they began to look at me closely. Fortunately, I had put my Senate card in my shoe. As they tried to remove me from the Senate, I took my shoe off and showed them my card, and they let me go in. Finally, I took Senator Charbonneau out on the floor and we had a little dance together. You are right, I was a clown once.

Then we must remember the researchers, the maintenance crew, the committee clerks, the reporters, the translators, and, of course, our wonderful pages. I had a lot of fun cooking up batches of cookies to share with the pages.

I would also like to pay tribute to a capable staff who ably provided for my every need over the past 10 years. There was Jacqui, who left us to do wonderful things; there was Margot, who came through every time I needed her; and now, there is Monique, who has come to pick up at the end and to see this senator off. I will miss you all.

I would like to thank the former Speaker, the late Senator Molgat. He and his wife, Alice, could not have been more attentive or wonderful than they were to us when we travelled together.

I thank the present Speaker, Senator Hays, and I congratulate him and Kathy on their wedding. Paul Bélisle has been special to me and to all of us, and we thank him for his hard work and dedication. It has been a pleasure to know them.

I wish to express my sincere thanks to John and Noël for their leadership and friendship and to John for giving me the unique opportunity to serve my caucus as their whip, and as caucus vice-chair while our chairman was ill. I could not have done this job without their support. It has been a pleasure and it has been fun.

Whipping duties bring out all kinds of personalities, when you are awarding trips, arranging office space and committee memberships. They love you one day and they hate you the next. Truthfully, it was a pleasure to work for you all. I thank you for your patience and understanding during those years.

I would be remiss if I did not acknowledge my respect for Senator Mercier. We shared a cooperative working relationship in our roles as Senate whips. He was kind and cooperative, and we managed to work out difficulties with our office space. I wish him a speedy recovery.

I owe my deepest gratitude to that guy up there, Ralph, and my family. As they said in the beginning, back in 1978, "Mom, if you are going into politics, we know you will love it and do a great job, but you must make sure you and dad can work it out." During my 20 years in politics, over 10 years in Ottawa, Ralph has always been supportive. During our daily morning calls, he was upbeat and encouraging. It was a wonderful way to begin each day. I look forward to our retirement together. Ralph says it will be pretty stressful.

I am pleased to have our daughter, Joanne, and son, Michael, with us today. I have special memories that I will cherish in the days to come. I owe a debt of gratitude to Brian Mulroney for giving me the opportunity to serve my country. I played a small role in making it a better place for our grandchildren, great grandchildren and the generations to follow. I wish you all a very pleasant summer.



[Translation]

## SENATORS' STATEMENTS

### LA VOIX ACADIENNE

**Hon. Eymard G. Corbin:** Honourable senators, for 24 years now, the Acadian community of Prince Edward Island has been served by a remarkable little weekly newspaper, *La Voix Acadienne*. I characterize it as remarkable because, having been a journalist myself, I feel I am well placed to compare and appreciate a good product and journalistic excellence.

Jacinthe Laforest is the editor, supported by the no less talented reporter Annie Racine. Janine Arsenault prepares the copy. I would be remiss not to also name the CEO, Marcia Enman, and Ghislaine Bernard, who looks after accounts, subscriptions and photocomposition. This is, therefore, a newspaper wholly produced by women.

Its reporting, editorials and presentation are all top notch. I have been a subscriber for some years now. As a result, I am able to keep informed about the vitality of the PEI Acadian community, which is actively involved in restoring its distinctive culture, successfully so I might add.

That said, honourable senators, I would like to tell you about an extraordinary event that took place this past April 1 in the Acadian parish of Mont-Carmel, which is well known to me. When I was a journalist for the *Évangéline* in the 1960s, I used to take the ferry, and what a pleasure it was to do so at that time, to cover important events there.

The extraordinary thing that took place on April 1 this year, and which was reported in *La Voix Acadienne* in its Wednesday May 30 issue, was this:

Pastor David Adcock of the Southampton Community Church in the great English seaport of Southampton contacted the parish priest of Mont-Carmel, Fr. Eddy Cormier, in the spirit of ecumenism, about taking part in mass on Sunday April 1.

Here is what Pastor Adcock said, in impeccable French, to the faithful, when commenting on an excerpt of the Epistle of St. Paul to the Corinthians on reconciliation. He said:

Last year, when I visited Prince Edward Island, for the first time, I read about the Deportation of the Acadian people and, as an Englishman, I was shocked to find out what had happened to you. If you think it is appropriate for an Englishman, a minister from Southampton, England, in 2001, to apologize, allow me to do so in this fashion: I ask your forgiveness for the way my people treated you.

*La Voix Acadienne* says that no one was expecting such a statement, and added: "Some had tears in their eyes and there was a thunder of applause in the church."

Honourable senators, Acadians are generous people and they are particularly patient. They are still waiting.

• (1440)

[English]

### BRITISH COLUMBIA

#### ANNOUNCEMENTS BY SECRETARY OF STATE FOR WESTERN ECONOMIC DIVERSIFICATION

**Hon. Edward M. Lawson:** Honourable senators, last Friday I had the pleasure of accompanying Mr. Ronald Duhamel, the Secretary of State for Western Economic Diversification, around British Columbia while he was announcing investments in British Columbia.

We first went to the University of British Columbia, where the minister announced the federal government is investing \$2.7 million to help Fuel Cells Canada develop six new research laboratories in Vancouver. Western Economic Diversification is contributing \$1 million and the National Research Council of Canada is contributing \$1.7 million toward the hydrogen-safe laboratories on the campus of the University of British Columbia.

The minister said that the Government of Canada expects to see Vancouver's Fuel Cell Technology Centre become an international showcase for Canadian fuel cell technologies and a platform for collaborative technology and product development.

Fuel Cells Canada President Brian T. Josling said:

In 2001, we believe that the fuel cell industry is the greatest opportunity for Canada in terms of job creation — both knowledge based and manufacturing.

As an aside, they demonstrated a bicycle, a little black box, two by two by six, fuel cell powered, with no emissions and one can ride all day and never turn a pedal. It will be available very soon.

We then travelled to the British Columbia Cancer Agency, where the minister provided the BCCA with a \$1-million contribution to acquire equipment urgently needed by the Genome Sequence Centre to meet its research needs. The Genome Sequence Centre performs high-volume DNA sequencing to generate genetic information for use in developing new diagnostics and therapies for cancer and other diseases. Through partnerships, the centre will also be an important Western Canadian resource for other life sciences such as silviculture and agriculture.

Dr. Victor Ling of the BCCA said:

Wednesday, June 13, 2001

We are grateful to Western Economic Diversification for its commitment and support of genomic research. The addition of this new equipment will greatly enhance our ability to realize our vision of a genome sequence centre that will advance our scientific expertise and with hope and hard work, lead us to significant advances in new cancer treatments, cures and prevention strategies.

Probably the greatest contribution made by those visits and investments is the progress towards healing and reducing the feeling of Western alienation. I commend the government and Minister Duhamel for their activity in this regard.

## THE LATE CHARLES BRADLEY TEMPLETON

### TRIBUTE

**Hon. Jerahmiel S. Grafstein:** Honourable senators, I wish to make a brief tribute to the late Charles Templeton. He passed away last week.

As honourable senators are aware, Charles Templeton was an outstanding journalist, writer, editor, playwright, actor, broadcaster, artist and politician. It is about his political career that I wish to comment briefly.

Mr. Templeton decided in the early 1960s to seek the leadership of the Liberal Party. I was actively engaged in the Liberal Party in those days and supported a former colleague of ours, Mr. Andrew Thompson, who was also seeking the leadership of the Liberal Party.

The only reason I wish to comment is that at the Liberal convention, Charles Templeton, who was a magnificent speaker and broadcaster, made one of the most outstanding political addresses I have ever heard, before or since. It was my task to help Mr. Thompson prepare his speech for that particular event. While Mr. Thompson did not reach the eloquence of Mr. Templeton, he certainly matched it in the same arena. I say that because had Mr. Thompson not stood up to the test and matched at least the level of rhetoric of Mr. Templeton, Mr. Templeton would have become the leader of the Liberal Party and history would have changed and history in this chamber would have changed.

I wish Mr. Templeton's family my heartiest and sincerest condolences. He was great Canadian, a great speaker, and in time he could have been a great politician.

## ROUTINE PROCEEDINGS

### FARM CREDIT CORPORATION ACT

#### BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Leonard J. Gustafson,** Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

### THIRD REPORT

Your Committee, to which was referred Bill C-25, An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Tuesday, June 12, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEONARD J. GUSTAFSON  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Tunney, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[*Translation*]

## ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, June 14, 2001, at 1:30 p.m.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

[*English*]

## APPROPRIATION BILL NO. 2, 2001-02

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-29, for granting to Her Majesty certain sums of money for the Public Service of Canada for the financial year ending March 31, 2002.

Bill read first time.



**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

• (1450)

## THE SENATE

### RESOLUTIONS OF STANDING COMMITTEES OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES AND NATIONAL FINANCE ON BILL C-4—NOTICE OF MOTION TO FORWARD TO COMMONS

**Hon. Mabel M. DeWare:** Honourable senators, pursuant to rule 58(1)(i), I give notice that on Thursday, June 14, I will move:

That the Senate endorse and support the following statements from two of its Standing Committees in relation to Bill C-4, being an Act to establish a foundation to fund sustainable development technology.

From the Fifth Report of the Standing Senate Committee on Energy, the Environment and Natural Resources, the following statement:

"The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of \$100 million of taxpayers' money with that corporation, without the prior approval of Parliament, is an affront to both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process."

From the Eighth Report of the Standing Senate Committee on National Finance being its Interim Report on the 2001-2002 estimates, the Committee's comments on Bill C-4:

"Senators wondered if this was an appropriate way to create such agencies and crown corporations. They questioned whether the government should have passed the bill before it advanced the funding. The members of the Committee condemn this process, which creates and funds a \$100 million agency without prior Parliamentary approval."

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with the Senate's views and conclusions on Bill C-4, being an Act to establish a foundation to fund sustainable development technology.

## INFORMATION COMMISSIONER

### NOTICE OF MOTION TO RECEIVE IN COMMITTEE OF THE WHOLE

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, pursuant to rule 58(1)(i), I give notice that on Monday, June 18, 2001, I will move:

That the Senate do resolve itself into a Committee of the Whole, on Wednesday June 20, 2001, at a time convenient to the Government and the Information Commissioner in order to receive the Information Commissioner, Mr. John Reid, P.C., for the purpose of discussing the most recent Annual Report of the Commission, including the call in that report for whistleblowing legislation; and

That television cameras be authorized in the Chamber to broadcast the proceedings of the Committee of the Whole, with the least possible disruption of the proceedings.

## QUESTION PERIOD

### FINANCE

#### IMPOSITION OF TAX ON CARTONS OF CIGARETTES—EFFECT ON DUTY-FREE SHOPS

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, I intervened on Bill C-26 and brought to the attention of honourable senators the fact that the bill inadvertently undermines Canada's duty-free industry by the imposition of a \$10 tax on a carton of cigarettes. I gave facts that demonstrated that duty-free outlets employ directly thousands of Canadians and that many more jobs result indirectly from the millions of dollars of purchases made by this industry of local and national goods and services.

Was it the government's intention in carrying out its much desired intention of protecting the health of Canadians respecting the consumption of tobacco to inadvertently decimate the duty free industry in Canada? If not, will the minister speak with the Department of Finance and ask them to withhold implementation and enforcement of that particular surcharge until such time as further consultation can take place with the industry?

As the minister will know, an amendment to that effect was made by the Standing Senate Committee on Banking, Trade and Commerce in committee, but it was voted down by the Liberal majority. In essence, therefore, is it the government's intention in the passage of Bill C-26 to inadvertently bring about the death of the duty-free industry in Canada?



**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, not only is it not the government's intention, advertently or inadvertently, to bring about the death of the duty-free industry, it is not the purpose of Bill C-26. Nor is it part and parcel of the government's policy.

The government's policy is very clear in Bill C-26. The government believes that Canadians should be discouraged from smoking. One of the factors in discouraging Canadians from smoking has been proven to be the price of cigarettes. Why should a Canadian who buys his or her cigarettes in a duty-free shop pay less for that carton of cigarettes than a Canadian who buys it from any other outlet anywhere in this country?

**Senator Oliver:** Honourable senators, with respect, that answer did not deal with the central part of my first question, which was whether or not the minister would intervene with the department and discuss with them the possibility of suspending that particular provision, which might bring about the death of the duty-free industry, until such time as further consultation with that industry took place.

**Senator Carstairs:** Honourable senators, no, I will not intervene. I was the sponsor of Bill C-26, and I knew exactly its purpose. I supported Bill C-26 in its entirety. I do not think an intervention is necessary.

**Hon. David Tkachuk:** Honourable senators, are the taxes on liquor in Canada a way to prevent alcohol consumption?

**Senator Carstairs:** Honourable senators, the most recent estimates indicate that the loss of 47,000 Canadians per year from smoking is a unique situation. I do not think that applicable comparisons can be made with the liquor industry.

**Hon. J. Michael Forrestall:** Honourable senators, what happens when marijuana goes up for sale at the border?

**Some Hon. Senators:** Oh, oh!

## NATIONAL DEFENCE

### REPLACEMENT OF SEA KING HELICOPTERS—TENDENCY OF EUROCOPTER COUGAR FOR STATIC ROLLOVER—FITNESS FOR NAVAL OPERATIONS

**Hon. J. Michael Forrestall:** Honourable senators, I want only the safest aircraft that it is possible for the people of Canada to obtain for the people who have to fly them. I draw the attention of the Leader of the Government in the Senate to United Kingdom Air Accident Investigation Bulletin No. 6/96. It states that that AS332L, the Super Puma, the land model of the Eurocopter Cougar, has a tendency for static rollover, a condition not known to exist with the two other primary corporations in quest of providing the helicopters we need for shipborne replacement, namely, the Sikorsky and the EH-101.

The static rollover tendency of the Cougar means that the Cougar would be unstable on the back of a destroyer or frigate in the pitching seas of the Atlantic, the Pacific or, indeed, elsewhere. Is the government aware that the Cougar is prone to the static rollover and thus unsuited to naval operations?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I can assure the honourable senator that I will make the information available in United Kingdom Bulletin No. 6/96 to the government.

**Senator Forrestall:** Honourable senators, in the past I have made inquiries about the Cougar never being "navalized." If you will, "navalization" is simply a short way of suggesting that it does not have things like folding rotors or a reinforced undercarriage — the things that make a helicopter a suitable naval vehicle.

• (1500)

Why would the government pursue this variant when it was rejected for naval operations by countries such as India, South Africa and the Nordic states? Twice here in Canada it has been rejected. Why are we now pursuing it?

**Senator Carstairs:** Honourable senators, it is very clear and has been clear, not only through my leadership here in the Senate but through my previous three leaders in this institution, that Senator Forrestall likes the EH-101. We accept that he likes the EH-101. It is equally clear he does not like the Cougar. That is his right and his privilege. However, I will put my faith in a tendering process that meets the needs of the military at the best possible price.

**Senator Forrestall:** Honourable senators, I defy the Leader of the Government in the Senate to find one single utterance of mine in this chamber that would lead her to the conclusion that I dislike the Eurocopter. It is a tremendous plane and I have said so on a number of occasions.

What I have said is that it is not the plane that I want the men and women at Shearwater climbing into for operational duty in the North Atlantic. That is what I have said and I say it again.

I will have one more chance tomorrow. I look forward to the results of the minister's inquiry with respect to the accident investigation. Indeed, if there is a static rollover problem with this equipment, not only is it not suitable for land operations, it is totally unsuitable for airborne activity or shipborne activity.

**Senator Carstairs:** Let me make it very clear to the honourable senator that neither I nor any of my colleagues in cabinet want anything but a safe plane for our military to climb into.

If the honourable senator has other questions, I would suggest he ask them today. I will not be in the chamber tomorrow. I will be attending the funeral of a very dear friend.

## TREASURY BOARD AND JUSTICE

### MEMBERSHIP OF ACCESS TO INFORMATION REVIEW TASK FORCE

**Hon. Terry Stratton:** Honourable senators, my question is directed to the Leader of the Government and are with respect to the comments of the Information Commissioner when tabling his report on Monday. Commissioner Reid noted that the Access to Information Review Task Force is a "wolf in sheep's clothing" designed to weaken, not strengthen, the public's access to government records. He goes on to say that it is really an insider's task force.

Could the Leader of the Government in the Senate inform the Senate who is on this task force?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the senator has asked this afternoon exactly who is sitting on the task force. I do not have that information available, but I will obtain it for the honourable senator and get it to him at the earliest possible time.

**Senator Stratton:** The concern we all have, particularly Commissioner Reid, is that we are trying to strive for in government more transparency in government. The public seems to want it. In this particular instance, we would appreciate an assurance on the minister's part that this process will, indeed, be transparent and that the revised Access to Information Act rules will be brought before Parliament in a way that not only is transparent but is perceived to be so.

**Senator Carstairs:** Honourable senators, we all know that a task force has been appointed. We know it has been mandated to review all components of the access to information framework. It is also important that the task force has established an external advisory committee outside of government, made up of individuals from academia, the legal profession, business and the media. When, if any, changes are made, they will be brought, as they should be, to this chamber and to the other place for full debate and discussion.

It is also important to note that the number of complaints to the Information Commissioner has fallen by 69 per cent since the last annual report: from 216 in 1999-00 to 68 in 2000-01. It would appear from the number of complaints that there is in fact more confidence among Canadians in the information and its availability.

**Senator Stratton:** Honourable senators, there is a fairly substantial service charge to get access to information that perhaps limits the number of requests.

**Senator Carstairs:** Honourable senators, the service charge is certainly an interesting issue. However, the service charge is not substantial. The indication is that the charge is relatively low and modest, and if it is utilized in a way that is both responsive to the

person desiring the information and to those giving the information, I think it is the correct balance.

[Translation]

## NORTH ATLANTIC TREATY ORGANIZATION

### MEETING OF HEADS OF STATE—REQUEST FOR COMMENTS BY PRIME MINISTER

**Hon. Pierre Claude Nolin:** Honourable senators, my question is for the Leader of the Government in the Senate.

After more than 18 months, an important meeting of heads of State of North Atlantic Alliance member countries was held in Brussels this morning. The Prime Minister of Canada took part in this meeting, and honourable senators must know that he is the senior member of this fraternity of 19 allied countries. I trust, therefore, that the Prime Minister's message was one of wisdom.

Could the minister share with us the message delivered by Prime Minister Chrétien to his North Atlantic Alliance colleagues?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, because of the time change, of course, the meeting has been concluded in Brussels. I can tell honourable senators the following: The meeting was an opportunity to exchange views on the changing role of the North Atlantic Council in international security, particularly with respect to the Americans, and that this was the first meeting that President Bush has attended.

Several key issues drew the attention of leaders: notably, the situation in the Balkans, particularly Macedonia; the United States' proposals on missile defence; and the whole issue of NATO enlargement, of which, as you know, our Prime Minister has been a supporter.

No specific decisions or commitments were made at this meeting. It was an informal meeting and no anticipated decisions were expected.

### MEETING OF HEADS OF STATE—STATEMENT OF SECRETARY GENERAL ON CONFLICT IN MACEDONIA

**Hon. Pierre Claude Nolin:** On the enlargement, I think we must wait until the Prague meeting next year. We will hear more at that time. My questions are more focused on the Macedonian problem. Secretary General Lord Robertson, after the meeting, issued a statement to the press. On the subject of Macedonia, he said:

Our goal is to see the democratic structures in the region become strong enough to be self-sustaining. That job is not yet done. We will therefore maintain our presence —



My first question is, what presence?

— and our commitment to the tasks ahead. One immediate task ahead is to assist the government in Skopje in dealing with the ethnic Albanian insurgency. Heads of State and Government reaffirmed their full support for the government in Skopje and their complete and total rejection of the attacks on this democratic government.

What was Canada's position on that, specifically? What does it mean, to maintain our presence? Are we following the Greek proposal of last week to intervene physically and militarily in Macedonia?

• (1510)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the meeting memorandum to which my honourable friend has made reference clearly condemned the attacks against the democratic government of the former Yugoslav Republic of Macedonia and reaffirmed that the only way to address the legitimate concerns of the ethnic Albanian population is through the normal political process. As to exactly what commitments the Canadian government made at that meeting, I will have to seek that information and return it to the honourable senator.

**Senator Nolin:** Honourable senators, on a supplementary question, the Secretary General in his statement made a plea to the heads of states in the meeting. He said:

As Secretary General, I gave a personal and urgent message that NATO's credibility is its capability. If we want NATO to be as successful in the future as it has been in the past, we must all invest wisely and enough, to ensure that we have the military capabilities for any crisis of the future.

What was the Canadian position? I read two words: "wisely and enough." What was the good news Canada gave to the meeting this morning?

**Senator Carstairs:** Honourable senators, I do not know what the contribution of Canada was to meet the requirements of "wisely and enough." However, I will seek that information and get it for the honourable senator.

## FISHERIES AND OCEANS

MEETING OF STATE MINISTERS IN STOCKHOLM.  
SWEDEN—COMMENTS BY MINISTER ON STRUCTURED  
MANAGEMENT OF FISH STOCKS IN INTERNATIONAL WATERS

**Hon. Gerald J. Comeau:** Honourable senators, my question is addressed to the Leader of the Government.

The Minister of Fisheries was in Stockholm a couple weeks ago meeting with his counterparts from other countries at a discussion forum or discussion group. He stated, and I will use

his expression, that the fish stocks around the world were seriously depleted and required more "structured management."

I am always suspicious and concerned when I hear new bureaucratic buzzwords such as those, especially when they are used far away from Canada and will not get the kind of play they would if they were used in Canada. Is the minister aware of what "structured management" means? If so, would she enlighten this house?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I can tell the honourable senator this afternoon two things. Clearly, the minister has expressed his concerns abroad, as he has expressed those same concerns here, that there is depletion of certain fish stocks in Canada and also worldwide.

I also know there was an agreement to monitor and to manage the area in international waters — I should not say "manage." There was an agreement that the situation be monitored. Greenland will be the leader in that monitoring, but Canada is in support of monitoring those fish stocks.

**Senator Comeau:** Honourable senators, the minister is referring to the meeting held in Spain. I was referring to a meeting a week or so earlier in Stockholm, Sweden, when the question of other species was discussed. I agree with Senator Carstairs that we do have to be careful with regard to wild salmon, which are being seriously depleted. We must be mindful that we might completely deplete all of our Atlantic rivers if we do not take action. I am referring to the Sweden discussion where the words "structured management" were used.

I will read a quote from the minister at that time. He said: "Although we see growth in some fisheries, we are also witnessing a decline in many fish stocks which have supported traditional fisheries." Again, the careful use of words such as "have supported traditional fisheries" worries me. Are we heading towards a new management structure that may leave behind traditional fisheries communities? If the minister does not have the answer today, would she try to enlighten us as to what this conference was all about?

**Senator Carstairs:** I must tell the honourable senator that I do not have any reference notes with respect to the meeting in Sweden, but I will attempt to find those for the honourable senator and send them to him over the summer break.

## FOREIGN AFFAIRS

UNITED STATES—MISSILE DEFENCE SYSTEM—FUTURE OF  
ANTI-BALLISTIC MISSILE TREATY—COMMENTS BY AMBASSADOR  
TO CANADA

**Hon. Douglas Roche:** Honourable senators, my question is directed to the Leader of the Government in the Senate. I want to thank the leader for obtaining the information that I requested on the proposed U.S. missile defence system. I am sure she knows that events on this subject are racing ahead.



Yesterday, President Bush denounced the Anti-Ballistic Missile Treaty as "a relic of the past," while Germany and France urged the European Union to stand firm against wrecking the ABM. The Bush administration is now planning a crash effort to put into place a rudimentary missile defence system by 2004.

This is now a defining moment in international relations. Will the government now stand up for long-held Canadian values of international law and state firmly that present U.S. conduct threatens the whole architecture of arms control and disarmament and could set off new nuclear arms races?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Minister of Foreign Affairs has been very clear and continues to be clear about the position of Canada at this time. We do not know what the United States wants to do. We do not have detailed information as to their future plans. We are pleased that they are willing to consult not only with us but with Russia, China and other allies. The position clearly is that we must protect Canada's interests above and beyond all else.

**Senator Roche:** Honourable senators, the minister stated that we in Canada do not know what the U.S. wants to do in this regard, but the U.S. administration does. Yesterday, the new U.S. Ambassador to Canada, Paul Cellucci, publicly stepped up the pressure on Canada to support U.S. plans for a missile defence system.

Will the government tell Ambassador Cellucci to cool down and remember that his own president said that he wanted "real consultations" with U.S. allies and was not presenting us with "unilateral decisions already made"?

**Senator Carstairs:** Honourable senators, with the greatest respect to Senator Roche, I would be very angry if the United States government, particularly the President of the United States, gave orders to the Canadian ambassador in Washington. Therefore, I would refrain from making the same request here in Canada of the American ambassador.

**Senator Roche:** Honourable senators, it is a mark of diplomacy for ambassadors to be communicated with by their host government as well as their own government.

#### UNITED STATES—MISSILE DEFENCE SYSTEM— COST TO CANADA

**Hon. Douglas Roche:** Honourable senators, I wish to move the discussion to the question of cost. The Canadian government continues to avoid the question of what Canadian involvement in a missile defence system will cost Canadian taxpayers. Since the deployment of such a system is estimated at \$100 billion or more, even a fraction of that cost will be an enormous sum for the Canadian taxpayer to bear and would divert public funds

desperately needed elsewhere while the gains go to private industrial interests.

Does the government feel any obligation to share with all Canadians what they may be in for down the line if Canada goes ahead and participates in the U.S. missile defence system?

**Hon. Sharon Carstairs (Leader of the Government):** With the greatest of respect to the honourable senator, he is leaping to conclusions. The government is in discussions only to find out what the Americans wish to do. That is the extent of the discussions at the present time. As the honourable senator said, there should be communications between our government and ambassadors from all countries resident in Canada. However, there is a difference between having communications, keeping open lines, all of which are important to the basis of diplomacy internationally, and dictating what an ambassador from a foreign country should say or do when he or she is representing his or her country, not ours.

[Translation]

#### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table the delayed answers to five questions: Senator Gustafson's question of June 5, 2001, concerning agriculture and agri-food; Senator Tunney's question of June 5, 2001, concerning agriculture and agri-food; Senator Forrestall's questions of April 26 and May 10, 2001, concerning CFB Shearwater; and Senator Gauthier's question of June 12, 2001, concerning CRTC decisions.

#### AGRICULTURE AND AGRI-FOOD

##### DOWNTURN IN GRAIN SEED AND OILSEED SECTORS— EFFECT OF INPUT COSTS

*(Response to question raised by Hon. Leonard J. Gustafson on June 5, 2001)*

The subsidies provided by the U.S. and the European Union to their grains and oilseeds producers are higher than those provided by Canada. This is a concern, not only to Canada, but also to other countries, like Australia and New Zealand, which are heavily involved in the export of agricultural commodities. However, we need to ask ourselves whether higher subsidies make the agricultural sectors of those countries more competitive over the longer run, or whether the result is a sector that is more dependent on subsidies. It is important to note that there continue to be demands by European and American farmers for even higher levels of assistance.

In Canada, the objective has been to provide support in ways that help farmers deal with the income problems they encounter while also helping them to prepare for the future. Both the federal and provincial governments are expending substantial sums on research and development aimed at improving the long-term prospects for agriculture. And our safety nets are intended to help farmers manage financial difficulty without influencing their production and marketing decisions. The Net Income Stabilization Account program is a case in point: individual farmers are free to decide how best to use the funds in their accounts in meeting current difficulties.

In developing new safety net programs, Canada must comply with its international trade agreements and make every effort to avoid countervail action by our trading partners. While this is true for all countries, it is of particular importance for Canada. Given our reliance on foreign consumers, especially those in the U.S., it is essential that we design our safety net programs in ways that avoid action against our exports. Failure to do so in the past has resulted in countervail duties that offset any potential benefits to our farmers. Our hog sector, for example, lost many millions of dollars over a 12-year period through a countervail action by the U.S. The Americans and Europeans export smaller proportions of their total production and have less concern about countervail action because it would not have the same negative impact. Nevertheless, in World Trade Organization negotiations, Canada will continue to press for lower subsidies so that farmers from all countries can enjoy higher market returns.

With respect to the option of instituting controls on the prices of farm inputs, it is important to recognize that the prices of major inputs — fertilizers, pesticides, fuel and farm machinery — are determined by conditions in world markets. If Canada insisted that these products be made available here at lower prices, it would not be possible to obtain an adequate supply and farmers would not be able to purchase the inputs they need. Further, such price setting would not be considered “green” under World Trade Organization policy and legislation, and could result in countervail actions from our trading partners. Therefore, to ensure that Canada’s prices for inputs are not out of line with world prices, there are few restrictions on the import of farm inputs. When restrictions are required, as in the case of pesticides, monitoring is carried out to determine whether prices in Canada are above those of the world market. To date, this has not been the case.

While the government can never shield producers fully from all risks, Canada has several measures in place to help producers to weather the effects of volatile input markets. In particular, the Canadian Farm Income Program (CFIP) and Net Income Stabilization Account (NISA) provide support for producers who suffer significant drops in net income,

including those brought on by rising input prices. Producers can withdraw funds accumulated in their NISA account when their net income drops below critical levels. Significant increases in fertilizer costs could trigger such withdrawals. Similarly, when producers suffer a severe decline in net income, CFIP brings them back up to 70 percent of their previous three-year average. These programs are in accordance with our international trade agreements, and treat all producers and regions equitably.

#### INTEREST FREE GOVERNMENT LOANS TO PURCHASE SEED, FERTILIZER AND SPRAYING MATERIAL

*(Response to question raised by Hon. Jim Tunney on June 5, 2001)*

As a loan guarantee program, the Spring Credit Advance Program (SCAP), assists producers who may need short-term financial assistance to plant their crops. Other programs under the safety net framework provide risk management and income stabilization, including the Net Income Stabilization Account (NISA) program, crop insurance, various companion programs and the Canadian Farm Income Program (CFIP). Moreover, a SCAP loan may be transferred to the Advance Payments Program in order to extend the payback deadline.

Incomes from farm businesses are subject to much uncertainty. Producers will have to decide on an individual basis, to what extent they should borrow funds from SCAP or other sources, given this year’s market potential.

### NATIONAL DEFENCE

#### POSSIBLE SALE OF PORTION OF CFB SHEARWATER

*(Response to questions raised by Hon. J. Michael Forrestall on April 26 and May 10, 2001)*

The Department of National Defence has identified surplus lands at Canadian Forces Base Shearwater and is going through normal processes to sell the lands at market value to the Canada Lands Company (CLC).

### HERITAGE

#### CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION—DECISION ON FRANCOPHONE BROADCAST PROGRAMMING IN BRITISH COLUMBIA

*(Response to question raised by Hon. Jean-Robert Gauthier on June 12, 2001)*

The Government notes that the CRTC has granted the CBC a license to provide La Chaîne Culturelle to the Vancouver area, provided it can identify a suitable frequency for that service. The CRTC has asked the CBC to do so within three months.



In the case of Victoria, the CRTC denied the CBC license application to use frequency 88.9 MHz to extend the programming of La Première Chaîne to this area. However, in making this decision, the CRTC suggested that the CBC might wish to consider other frequencies that could allow it to provide both la Chaîne Culturelle and la Première Chaîne to Victoria.

The CBC is an autonomous Crown corporation operating at arm's length from Government. It is responsible for all operational decisions including those respecting the extension of its radio and television services.

The CRTC is an independent regulatory agency. In renewing the licenses of the CBC in January 2000, it reiterated its expectation that the CBC increase the coverage of its French-language radio service, la Chaîne culturelle.

The Government is confident that the CBC will carefully assess the CRTC decisions, and take into consideration the issues identified by it with respect to improving the coverage of its French-language radio services.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, we would like to begin with Item No. 2, that is third reading of Bill C-28, before moving to Items Nos. 3, 1 and 4 on the Order Paper.

[English]

### PARLIAMENT OF CANADA ACT MEMBERS OF PARLIAMENT RETIRING ALLOWANCES ACT SALARIES ACT

#### BILL TO AMEND—THIRD READING

**Hon. Anne C. Cools** moved the third reading of Bill C-28, to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act.

She said: Honourable senators, I rise to add a few words in this debate on Bill C-28. Just days ago on May 9 and May 29, 2001, I had spoken to Bill C-12. That Bill amended the Judges Act to increase their salaries. These salaries and their increments largely flowed from the Judicial Compensation and Benefits Commission. I began my speech on May 9 saying:

...at the outset, I wish to state definitively that I do not take issue with either the actual quantum or the fact of salary increases for section 96 judges in this bill. Judges should be well remunerated. My concerns are the process and the persistent alienation of Parliament from this process of fixing judges' salaries, which is contrary to our notion of judicial independence, that constitutional convention that supports the proper exercise of power within proper constitutional relations between cabinet, the judiciary and Parliament. Canada never had the American separation of powers doctrine. Instead, we had responsible government, meaning that powers are not separated but are fused in responsible ministers of the Crown. Our Constitution chose to separate the personalities exercising the powers and not the actual powers.

Honourable senators, about Bill C-28 and the salaries of senators and members, I will say the same thing. Again, I take no issue with the quantum of the increase in parliamentarians' salaries as proposed in this bill. However, as with the Judges Act, I do take the very same exceptions with the process used to arrive at the quantum for the salaries. In addition, I strongly object to the tying of parliamentarians' salaries to the salaries of the judges, being the salary of the Chief Justice of the Supreme Court of Canada. Bill C-28's clause 1 makes this tie. It establishes a valuation point as the basis for the salaries of members of both Houses of Parliament. It names that valuation point a remuneration reference. That remuneration reference is the Chief Justice's salary. I take strong exception to the statutory inclusion of even a mention of the Chief Justice in the Parliament of Canada Act.

Honourable senators, the phenomenon of using the Chief Justice's salary as the valuation base for parliamentary salaries is not an appropriate or a desirable parliamentary action, and is unknown and even unhealthy to Parliament, the high court of Parliament. Bill C-28's technique of enshrining in statute the link between the salary of the Supreme Court's Chief Justice with the salaries of parliamentarians is not properly respectful of the coordinate constitutional roles of Parliament, the judiciary and the cabinet. Bill C-28 is not respectful and does not honour our constitutional principles and practices around constitutional comity between Parliament, the judges, and the cabinet. Furthermore, it undermines those principles.

Honourable senators, in my speeches on judges' salaries, I had raised my objections to the Judicial Compensation and Benefits Commission's process, asserting that it impaired Parliament from exercising its proper role, pursuant to the Constitution Act, 1867, section 100's words that judges' salaries shall be fixed and provided by the Parliament of Canada." I had also opposed the arbitrariness employed by the commission in determining the amounts of the judges' salaries. With Bill C-28, the situation will be worsened because the Judicial Compensation and Benefits Commission, which I already think is insufficient, will now, in effect, be setting parliamentarians' salaries.



Honourable senators, the government certainly could have done better than this in drafting Bill C-28. The government could have observed the principles that govern the balance of the Constitution and the proper relations between the coordinate parts of the Constitution.

Honourable senators, there are a host of problems with this bill that I shall not raise. In point of fact, I had not planned to speak or even raise any of these issues because it is my practice to leave the issue of our remuneration to other senators. However, today I speak briefly because in his remarks yesterday on this bill, Senator Grafstein referred to me, although not by name. Therefore, honourable senators, I thought I should add my few words to the record. The matter of reckoning parliamentarians' salaries by relying on a control amount, that is, a judge's salary, is not something that I could have let go without note.

Honourable senators, good governance requires the proper observance of these constitutional rules. Public servants should receive adequate compensation. These two Houses of Parliament should endeavour to establish proper mechanisms to determine the salaries of its members, its ministers, other high officials and judges — proper mechanisms that will uphold the public representative interest.

In closing, I would like to add, in respect to Senator Joyal's and Senator Grafstein's remarks yesterday, that I support most of what they had to say.

**Hon. Tommy Banks:** Honourable senators, I wish to place on the record my support insofar as they referred to the salary of the Speaker of the Senate yesterday; the remarks that were made here by Senator Joyal and Senator Grafstein.

I am utterly convinced by their arguments that, quite aside from the practical facts of the office and the practical demands upon the office, its symbolic nature and the symbolic position that it enjoys, particularly with respect to the putative equality of both Houses of Parliament, is something that ought to be taken into account. With respect to parity of the salary of the Speaker of the Senate with the salary of the Speaker of the House of Commons, I hope these points will be taken into account in the future.

**The Hon. the Speaker *pro tempore*:** If no other honourable senator wishes to speak, we will proceed to the motion for third reading.

It was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Joyal, that the bill be read a third time now.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**Senator Cools:** On division.

Motion agreed to and bill read third time and passed, on division.

## CANADA ELECTIONS ACT ELECTORAL BOUNDARIES READJUSTMENT ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Kroft, for the third reading of Bill C-9, to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act.

**Hon. Donald H. Oliver:** Honourable senators, I rise today to join in the third reading debate on Bill C-9. The purpose of this bill, as has been pointed out in the report of the Standing Senate Committee on Legal and Constitutional Affairs and by previous speakers, is to address the decision of the Ontario Court of Appeal in what is known as the *Figueroa* case.

• (1530)

In that case, the Ontario Court of Appeal overturned the provision of the Canada Elections Act that required a party to have at least 50 candidates running in a general election before the party could be identified on an election ballot. It was argued in that case by the Communist Party of Canada that this provision benefited larger political parties and therefore discriminated against small political groupings. The court held that this section contravened the Charter of Rights and Freedoms and could not be justified in a free and democratic society.

While the court decided that 50 was too high a number, it did not suggest the number that 50 should be lowered to for political parties to be identified on the ballot. The Lortie commission, which studied electoral reform after the 1988 general election, suggested 15. Bill C-9 contains the number 12.

I believe, honourable senators, that we were hoping that either Mr. Boudria, the Government House Leader, or Mr. Kingsley, the Chief Electoral Officer, would provide some explanation for this number. Alas, our hopes were in vain. There is no explicable rationale for it, save that it is the same number that a party is required to be elected to the House of Commons for a political party to be recognized for the purpose of the House of Commons. However, there is no relationship between the two concepts. Unfortunately, Mr. Kingsley said that he had no explanation that would support 12 rather than some other number. He also stated that, in the case of by-election, he supported naming on the ballot all the political parties for which the candidates were running. Therefore, it follows, as was pointed out in the committee's report, that a single candidate representing a political party at a general election should also be allowed to have his or her political affiliation on the ballot, providing the party meets all other legislative requirements.

The transcript of the evidence given before the Standing Senate Committee on Legal and Constitutional Affairs reveals that representatives of the so-called smaller parties suggested lowering the threshold to between a low of two and a high of five, depending upon the witness.

It should also be noted that the *Figueroa* case is headed to the Supreme Court of Canada to be heard later this year. We will then have the Supreme Court's view on this matter. I hope that court will be more direct about stating the preferred threshold than was the Ontario Court of Appeal.

It is, however, disappointing that the government witnesses before the committee could not give solid reasons to support the key element of this bill. Denying political parties that comply with all other aspects of the Canadian Election Act the right to have their name beside or under the name of persons who are the candidates actually creates confusion and the voter does not have all the information needed to make an informed decision at the ballot box.

I would not be surprised to see this matter come before us again during the life of this Parliament.

My colleagues in the other place referred to the curious wording of the advertising blackout provisions in this bill. We will simply have to wait for a court interpretation to determine whether the day before polling day is accidentally caught in the blackout period because of the wording contained in clauses 17, 18 and 19.

Finally, honourable senators, I believe it is appropriate to again mention the practice that used to prevail in Parliament in relation to any changes in election law in Canada. The practice prior to the fall of 1993 was that no changes were made to this act unless the political parties in the House of Commons were all in agreement. Now changes to this act are like changes to any other under this Liberal government. If agreement is not reached, they are simply timetabled into existence through closure.

My colleagues and I look forward to reviewing the major changes in the Canada Elections Act that will be brought in later in this Parliament.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

## CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL

THIRD READING—DEBATE CONTINUED—VOTE DEFERRED

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Milne, for the third reading of Bill C-4, to establish a foundation to fund sustainable development technology.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, could I have leave from the Senate to answer the questions that were asked yesterday?

**Hon. Senators:** Agreed.

**Senator Carstairs:** Honourable senators, I rise to provide additional information in response to the questions that were asked yesterday regarding Bill C-4.

Senator Kinsella asked a specific question about amount the paid to date to the sustainable development foundation. The government will pay the full amount of the \$100 million fund announced in the budget 2000 for sustainable development technology in stages to the foundation, with parliamentary approval for each payment. To date, Natural Resources Canada and Environment Canada each have made payments of \$25 million, in April 2001, to the private-sector foundation under the authority of existing departmental legislation and through the authority of Treasury Board Vote 5, pending approval in the 2001-02 Supplementary Estimates. Natural Resources Canada and Environment Canada entered into a funding agreement with the private-sector foundation in March 2001.

As to Senator Kinsella's question of interest earned, interest on the \$50 million transferred to date will accrue to the foundation. I cannot provide honourable senators with an exact amount, but this will be an item in the foundation's annual report and will be fully audited by a distinguished private-sector auditor. All interest earned will enable the foundation to do more work in support of sustainable development technologies.

Senator Lynch-Staunton asked a question with respect to the government role in creating the private corporation. The government allocated \$100 million in budget 2000 for the sustainable development technology fund, an initiative targeted at sustainable development technologies, in particular, climate change and air quality. The government considered three options for establishing or choosing an organization to fulfil its budget 2000 commitment: one, establishing a foundation under specific legislation; two, by contract with a purpose-specific entity created by the private sector under the Canada Corporations Act, Part II; or three, by contract with an already existing entity, whether government or not.

The government chose a combination of the first two options, specific legislation and the Canada Corporations Act, Part II. The government's first preference is legislation, as evidenced by Bill C-46 in the last session of Parliament and Bill C-4 in this session.



When the federal election was called and the previous bill died on the Order Paper, it became apparent that the creation of a foundation for the adoption of legislation within fiscal year 2000-01 would be unlikely; therefore, the government developed a contingency plan to fulfil its budget 2000 commitments.

The government wanted to ensure a competent, prudent organization to receive the government's allocation in order to avoid lapsing of the funds. The government held discussions with individuals of high standing in the private sector to ask if they would be prepared to establish such an organization. The government advised those individuals that it would only be prepared to contract with a private-sector foundation that would operate in accordance with the government's intent, as per the provisions of Bill C-4. This was done, and the government then entered into a contractual agreement with the foundation incorporated by the private sector on March 8, 2001, under the Canada Corporations Act, Part II.

This private-sector foundation has objectives, a governance structure and bylaws similar to those of the proposed Canada foundation for sustainable development technology. The government's funding agreement with the private-sector foundation has been carefully written to ensure that operations, auditing and reporting are in full accordance with the legislated foundation. It has been fully scrutinized by Treasury Board officials and contains all the requisite safeguards.

Senator Tkachuk asked a question with respect to the members of the corporation. The Minister of Natural Resources, when he appeared before the Senate Standing Senate Committee on Energy, the Environment and Natural Resources on May 15, stated:

I am very happy to tell you who they are. They are Mr. Jim Stanford, a former chief executive officer of Petro-Canada, who has a very strong reputation in respect of environmental matters; Mr. Ken Ogilvie, who is with Pollution Probe in Toronto; Dr. David Johnston, the President of the University of Waterloo; and Dr. Alain Caillé, the Vice-Rector responsible for research at the University of Montreal...I think that from the personal credibility of those individuals, you could agree we are proceeding in a prudent manner.

To date, I am not aware that any new directors nor any members have been pointed to the private-sector foundation.

**Hon. Ethel Cochrane:** Honourable senators, when we considered this bill at second reading stage last month, I said that I would support the bill in principle. Bill C-4 creates a foundation to fund sustainable development technology with an emphasis on technologies to reduce greenhouse gas emissions and to improve air quality. Those are initiatives that certainly deserve public support.

I also expressed some serious concerns about the bill. I said that I hoped the government members on the Standing Senate Committee on Energy, the Environment and Natural Resources would be receptive to some improvements in Bill C-4. My hopes were not fulfilled.

As a result, one could probably best describe my position on the bill as supportive in principle but opposed in practice. I, for one, shall be voting against this bill.

I have several reasons for this decision, which are essentially the same as the concerns that I voiced at second reading.

First, I do not see the need to establish a new foundation to achieve the government's stated purpose of promoting new environmentally friendly technologies. When appearing before our Senate committee on May 15, 2001, the Minister of Natural Resources said that he expects the administrative costs of the foundation to be about 10 per cent of its budget. Since it will begin with funding of \$100 million, that means that \$10 million will go toward administration. That is a significant amount of money.

I see no reason to set up a new foundation when these funds could be administered at a very substantial savings by the Department of Industry or by any of a number of government foundations and agencies that already exist, including the Canada Foundation for Innovation, which has received a total of \$3.1 billion in funds since 1997.

The minister told our committee that a new foundation was needed because none of the existing ones orient their funding to private sector centred partnerships to tackle problems and issues of concern to a particular sector. Frankly, I do not see that as a serious obstacle. We need only add a few lines to the existing agency's mandate.

I also notice that the Minister of Natural Resources and the Minister of the Environment are in the midst of a series of announcements, which began last week, about funding for projects to promote and develop cleaner new technologies, including air quality and energy efficiency. I am sure that all honourable senators have heard of them. These projects will come to a total of \$245 million. The government did not need to establish a new foundation to do this. In fact, \$100 million of that total will be disbursed through the technology partnership fund.

My second concern relates to the issues of transparency and accountability. The foundation will not be subject to access to information requests, nor will it be subject to the scrutiny of the Auditor General. It will operate at arm's length from the government. This amounts to yet another evasion, in my mind, of ministerial responsibility and the undermining of Parliament's abilities to scrutinize the expenditure of public funds.



The minister told our committee that he is not concerned about transparency and accountability. The foundation will appoint its own auditors and issue an annual report. He also said:

It seems to me that the transparency exists. The accountability is there.

He said that the funds for the foundation will come from the Department of the Environment and the Department of Natural Resources, both of which are responsible to the Auditor General.

Honourable senators, it appears that this was a bit misleading, in my view. On May 28, 2001, our committee heard from the interim Auditor General. She told us:

We are able to look at the funding agreements and the payments made from the departments to the foundation. We are not able to look at what the foundation then does with that money.

She also said that the Auditor General should be able to "follow the dollar" and provide an independent assessment of the management of public funds in order to facilitate accountability to Parliament.

Third, I suggest that there is some concern about the provisions allowing for the fund to be transferred to the administration by a private sector entity at the discretion of cabinet. After our committee hearings, far from being satisfied on this issue, I am even more concerned. It seems that it is a fait accompli. The minister informed us that a private sector "holding company...is up and running. When parliamentary approval is forthcoming in the normal course, that holding company will be rolled into the creature created by Parliament." He also revealed that the \$100 million in funds has been paid out to that "holding company" to avoid having the funds lapse at end of the fiscal year. Under what authority did the government do this?

Honourable senators, a private company as envisaged in this bill has already been set up and has received \$100 million in public funds before we have even passed the bill to authorize it.

The Auditor General raised the same objection at our committee hearing. She said:

We, too, are concerned about issue of the authority under which these payments were made. I would like to point out some dates.

She added:

The funding agreement was signed in March, and in April the actual payments were made. The payments were actually made after the year end.

Honourable senators, the most glaring problem with Bill C-4 is not the substance of the bill but the process. The bill provides for establishing a private sector foundation to administer the fund. It certainly does not provide for that to be done before the bill is passed. Goodness gracious, how could it? Yet the government has established a private sector holding company and handed it \$100 million in public funds without any authorization from Parliament to do so.

According to the minister, the \$100 million that was authorized for the foundation in last year's budget would have been lost if it were not paid out before the end of the fiscal year; but, it was not paid out before then. The money was only transferred in mid-April, and that has attracted the concerns of the Auditor General.

I was dismayed when I heard of this. I was heartened, though, to find that the government members of our committee shared my dismay. They described it as, among other choice phrases, an affront to Parliament.

The minister told us that in the opinion of the Justice Department, these actions were legal. Other lawyers might come to a different conclusion. In any case, if these actions were legal, they are certainly not acceptable or desirable practices in a parliamentary democracy. The transfer of public funds to a private sector holding company before the bill to authorize those actions has been passed establishes a very serious precedent, in my view.

I have other objections as well, honourable senators, including the size and composition of the management of the foundation and the provisions for dissolution of the foundation in the future. If it is dissolved, all remaining funds and assets would be distributed to existing project recipients, whether they need the money or not. Rather than indulging in this windfall for projects, I believe those funds and assets should be returned to the Consolidated Revenue Fund. I firmly believe that.

I am sure you can see why I have ample reason to vote against Bill C-4, and I urge all honourable senators to do the same.

**Hon. Edward M. Lawson:** Honourable senators, I have just a few comments on this legislation. We have a company in British Columbia with potential to be a great copper mining venture. It has 200 square kilometres of surface and proven reserves. However, they have a new technology so advanced that it does not need a smelter. It is environmentally friendly. Instead of producing copper in the usual way of sheets or ingots, it produces copper powder. Copper powder sells at a premium of somewhere between 50 cents and \$2 more than the usual price for copper. It has all the ingredients for what appears to be the criteria for applying to the foundation.

We referred the company to the science and technology fund that deals with these kinds of things. While they recognized the merits of it, the first thing that these people were told was, "The budget for the year has been spent." The second thing they were told was, "If we are going to do something, if you raise \$6 million and spend \$6 million, then we will reimburse you \$2 million." What was the response of the company involved in the face of this unbelievably bad market in trying to raise financing because of the technology collapse and other things? "If we had \$6 million or could raise \$6 million, we would not be coming to you."

I want to know from the government side what will be the criteria for the selection process. What will be the ground rules? Who will be entitled to apply? If they do apply, is there cash on hand? According to my sister senator, it is somewhere in a private fund. How do you spring it loose? Who is entitled to apply and under what conditions? Perhaps someone from the government side could find that information and share it with me so I could take it back to B.C.

**Hon. Terry Stratton:** Honourable senators —

**Hon. Donald H. Oliver:** Will someone answer Senator Lawson's questions before Senator Stratton speaks?

**Senator Stratton:** I do not think anyone was listening on the other side.

**Senator Cools:** No, I was listening.

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I cannot answer a question at this point. When a senator rises, it is usually to put a question to the last senator to have spoken.

[English]

**The Hon. the Speaker pro tempore:** I thought the honourable senator was asking a question of Senator Cochrane. Senator Cochrane, do you wish to respond to Senator Lawson's question?

**Senator Cochrane:** I am not part of the government, so I have no idea what the answers are.

**Senator Stratton:** Honourable senators, the past few years have seen the growing use of third parties to deliver government programs, sometimes as a part of an arrangement with an existing organization and sometimes through the creation of a new entity.

A year and one half ago, former Auditor General Denis Desautels took a serious look at some 77 of these new governance arrangements. The title of his report says it all, this being "Involving Others in Governing: Accountability at Risk."

He found, in paragraph 23.4 of the study:

For these new arrangements, the government does not have in place a consistent and generally acceptable governing framework that safeguards the essential principles of our parliamentary system. Nor has it been adequately capturing and communicating the lessons learned in these new approaches.

In our view, the federal government remains accountable to Parliament for the use of federal tax dollars, assets and authorities, no matter what tools it uses or arrangements it puts in place with partners to achieve its public objectives.

Honourable senators, he went on to say:

The government needs to ensure that departments and agencies setting up new arrangements address the essential issues of credible reporting to Parliament and the public, effective accountability mechanisms, adequate transparency and protection of the public interest.

Further down in his report, in paragraph 23.106, we see a specific recommendation:

Sponsoring departments should ensure that, where appropriate, the design of delegated arrangements provides for:

Formal mechanisms and guidance to resolve disputes with partners;

Means to deal with non-performance and termination of the arrangement;

Periodic program evaluations, the results of which are reported through ministers to Parliament;

Consideration of value-for-money audit; and

Independent assessment of the fairness and reliability of the performance information tabled in Parliament.

Honourable senators, while we are now debating Bill C-4, I think that what transpired in committee study of Bill C-17, the bill giving the Innovation Foundation a further \$1.25 billion, is very relevant in this debate.

I questioned the government witnesses as to what specific measures had been taken to address those concerns of the Auditor General as it applied to concerns with respect to the Innovation Foundation. I did not receive anywhere near what could be called satisfactory answers.

For example, I asked them if, before deciding to provide the foundation with a further \$1.25 billion, there had been any kind of an evaluation to see if the program was having a significant incremental effect. I asked if any kind of value-for-money audit had been conducted on the way the foundation conducted its business and if not, then why not? Unlike other spending programs, the foundation is beyond the scope of the Auditor General. I was told that there was an abundant body of anecdotal evidence.



Honourable senators, this is from the same government that until a few years ago was giving us anecdotal success stories about the Transitional Jobs Fund at HRDC, and I do not want to go through that again. Why? Here we are setting ourselves up to do the same thing again.

I was also told that the government had put together a panel to conduct a third-party evaluation. Somehow I fear that the government will be told what it wants to hear with little in-depth critical analysis. With all due respect to the Royal Society, which is conducting this study, should the Auditor General not, as Parliament's watchdog, have a major role to play in such an evaluation? As well, should the Auditor General not also have a mandate to audit the Sustainable Development Foundation that Bill C-4 seeks to create?

Honourable senators, according to the Innovation Foundation's web site, only projects valued at more than \$10 million are subject to audit by the foundation. I asked what mechanisms were in place to identify and deal with non-compliance in the case of smaller projects. I did not receive much of an answer. This leaves me wondering how the Sustainable Development Foundation will monitor and deal with non-compliance. Once it has cut the cheque, what will it do to ensure that the recipients spend the money in the approved manner?

I asked when we would see an evaluation of this program tabled in Parliament, if ever. I suspect that unlike reports of the Auditor General, any evaluation that is done will not be tabled in Parliament and that they will not be anywhere near as critical as those carried out by Parliament's watchdog.

Our colleague Senator Bolduc also had concerns about the Innovation Foundation that are quite relevant to our debate on Bill C-4. He noted that in paragraph 23.93 of this same report, the Auditor General had written:

The Canada Foundation for Innovation was created to review Canada's aging research infrastructure, yet it has no baseline figure for the age of the research capital base before the program began. It has no obligation to measure the effectiveness of its spending in reducing the average age of the capital base, nor any target to achieve for age reduction.

Senator Bolduc then asked the government witnesses if these particular concerns on the part of the Auditor General had been addressed. He wanted to know, for example, if the government now had a baseline figure for the age of the research capital base when the program began. He asked if the government had a target to achieve for reducing the average age of the capital base and, if so, what the target is and how it intended to measure its success. He did not receive much in the way of answers.

This begs the question, honourable senators, "Will there be any yardsticks to measure the success of this new sustainable

development foundation, given that there are none for the innovation foundation?" It makes one wonder how the government came to determine the right amount to be given to each foundation.

I suspect that, rather than being chosen as an appropriate amount to help research and environmental infrastructure, the money was chosen as an appropriate amount to help pare down last year's surplus.

Honourable senators, Canada's research performance falls far below that of most other nations, so I have no problem with funding university research per se. Indeed, the infrastructure on our campuses is in rough shape, as we all know. It is unfortunate that the government, a few years ago, took \$6 billion per year out of health care and education. Nor do I necessarily have problems with the concept of independent third-party delivery of research programs or of sustainable development projects. However, as a parliamentarian, I have serious concerns when control over federal money is handed to a third party without an adequate system of accountability.

On May 29, 2001, the new Auditor General, Sheila Fraser, appeared before the Energy Committee on Bill C-4. Honourable senators, we should bear in mind her comments as we consider this bill. She said:

The proposed legislation appears to contain some features that we call for in our 1999 audit, but not others, notably mechanisms that would ensure protection of the broader public interest.

Honourable senators, in other words, with Bill C-4, the government is setting up yet another arm's length agency that lacks adequate safeguards. Ms Fraser continued:

Fiscal and technological forces are pushing governments to use innovative, non-traditional ways of delivering programs and services. As we move to these new forms of delivery, we must be careful not to weaken fundamental principles of parliamentary democracy along the way.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I wish to say a few words about this bill and some concerns that have already been expressed. Despite some of the explanations given by the Leader of the Government in the Senate in respect of the relationship between government and the private corporation, the Senate still finds itself in a most uncomfortable position. Bill C-4 does nothing less than ask Parliament to make legal that which the government has done without parliamentary approval. It is as simple as that.

Honourable senators, I will recount certain facts behind this bill, at the risk of repeating what has already been said today and earlier, because it is important to establish and to know the sequence of events leading up to our being asked to pass this bill.



In the February 2000 tabling of the 2000-01 budget, the Minister of Finance said that, to help Canada remain a world leader in environmental technology, the government would establish a sustainable development technology fund at an initial level of \$100 million.

On October 4, 2000, Bill C-46, to establish a foundation to fund sustainable development technology, was given first reading in the other place, under the sponsorship of the Minister of Natural Resources. There was nothing in that bill referring to any corporation incorporated under Part II of the *Canada Corporations Act*. In October 2000, Parliament was dissolved for the election held on November 27. Bill C-46 fell by the wayside.

On February 2, 2001, the minister introduced Bill C-4, word for word, both in title and in the text, as C-46, except that clauses 35 to 39 had been added and refer to, as stated in clause 35, "any corporation incorporated under Part II of the *Canada Corporations Act*," as being designated for the purposes of Bill C-4. Note that there is no mention of a specific corporation, but rather just any corporation incorporated under Part II.

That is strange, honourable senators, because at the time it was obvious that the government was negotiating seriously with another corporation. Only five weeks later, on March 8, 2001, a corporation called Canada Foundation for Sustainable Development Technology was given its Letters Patent under Part II of the *Canada Corporations Act*. Its objectives, as stated in the Articles of Incorporation, are, for all intents and purposes, exactly the same as the wording you will find in the Summary on the inside front cover of the bill.

The version of subsequent events varies, but the end result remains the same. In his testimony before the Standing Senate Committee on Energy, the Environment and Natural Resources, on May 15, 2001, the Minister of Natural Resources said:

You will notice that this successor bill bears a very low number, C-4. It was introduced on the very first day that Parliament was back in action after the election. However, we had effectively lost four or five months of time.

The money that was set aside in budget 2000 needed to be put to work before the end of the fiscal year. Otherwise, it would lapse and then we would have to start again. In order to safeguard against that possibility, we introduced the bill as rapidly as we could to give it an early start in the new Parliament, and we wrote in transitional arrangements that would allow for the creation, if you will — I am using a term here that I do not mean as a legal term — of an interim holding company that could get into action before the end of the fiscal year, under certain limits. It could not, for example, actually adjudicate on projects, but it could get up and running.

This holding company, as I will call it for want of a better expression, is up and running and holding a space. When parliamentary approval is forthcoming in the normal course, that holding company will be rolled into the creature created by Parliament.

Senator Banks responded:

I am worried about the order of that. It seems an affront — if that is not too strong a word — to Parliament that this has been done and money has been moved before parliamentary approval has been given. I am wondering if the order is appropriate. For example, who are the principals of that foundation? Are they employees of the federal government? If not, who are they? Do you think that the moving of \$100 million, though it might be legal, is appropriate before Parliament has approved the bill under which the foundation will operate?

The minister replied:

That certainly was not my preferred ordering of events. As I said, we were interrupted last year in what would have been the normal flow of events. It was important, from the point of view of the fiscal framework, to deal with this \$100 million before the fiscal year ended. Otherwise, the money would no longer be available for this purpose. In order to keep the money for sustainable development purposes, we had to act during the course of the last fiscal year. We were faced with a conundrum.

If we did not have a recipient in place to receive the \$100 million before the end of the fiscal year, the money would lapse. We needed a vehicle to hold the space for sustainable development.

Honourable senators, I will proceed to testimony before the Energy Committee on May 29, 2001. The following exchange took place with the acting Auditor General, Ms Fraser. She said:

We too are concerned about the issue of the authority under which these payments were made. I would like to point out some dates. Unfortunately, we have not completed all our audit work, and that will be done as part of public accounts work. The funding agreement was signed in March, and in April the actual payments were made.

Mr. Goodale had other dates and said that the \$100 million was given before the end of the fiscal year. Now we find, and it has been confirmed by the Leader of the Government, that actually \$50 million was deposited in the private company's bank account in April, one month after the close of the fiscal year, for which the budget announced the monies.

• (1610)

Ms Fraser continues:

The payments were actually made after the year end.

**Senator Kelleher:** Were those payments made to the shelf company?

**Ms Fraser:** Yes. There was \$25 million paid by the Department of the Environment and \$25 million was paid by Natural Resources Canada. We do not know at this point if the government will want to record those payments as expenditures in the year ended March 31, 2001, or not. They would set it up as an account payable.

**The Chairman:** I believe the minister assured us that that was the reason for taking it out and putting it in last year's budget.

**Ms Fraser:** That raises an issue for us because the payments were actually made after the year end.

I do not want to presume what our audit findings will be, but there are some issues about dates and we do want to assure that the authorities under which those payments were made were appropriate.

**Senator Kelleher:** Can you express an opinion on the way it was done in this case, which was to make the transfer to a shelf company, in trust, for a foundation that had not yet been created?

**Ms Fraser:** I can say that I do not like the way that that series of transactions was done. We would have preferred that parliamentary approval be given to this foundation and to the amounts of money that would be sent into it, yes. The money, as I mentioned, is being sent out of government before services can ever be delivered.

**The Chairman:** Not only that, it did not go to a foundation, it went to a shelf company. Some of the rest of us would end up in big trouble if we did that.

On May 30, the President of the Treasury Board, with officials, appeared before the Standing Senate Committee on National Finance and the following exchange took place:

**Mr. Lief:** We have a partial answer. The organization was created under the Canada Business Corporations Act. The announcement was made to pursue this in the October update, and the government felt that it was such an important initiative on which to get started that it would advance at least the partial funds at the same time as seeking parliamentary approval to put it within a parliamentary accountability relationship with the rest of the government.

**Senator Banks:** We can assume, then, that the \$100 million will show up in the accounting for the previous fiscal year?

**Mr. Lief:** It will show up in terms of the accounting for the previous fiscal year in terms of financial statements, but when the legislation is approved, we will also show you that in the Supplementary Estimates.

**Senator Kenny:** I do not think any one is suggesting anything illegal happened here, but would you say this was best practices?

**Mr. Neville:** Let us not forget that legislation was introduced in October of 2000. However, with the call of the election it died on the Order Paper. With the reopening of Parliament, it was reintroduced and done so for factual purposes on February 2, 2001. That being said, there was a willingness on the part of the government to move this forward. A two-track approach in fact ensued, one taking the corporation, since it was in fact incorporated, and moving some funds to keep it going, and at the same time allowing for the legislation, which is proceeding.

It is a question of circumstances with the election having been called. It did change the approach. Now it is back on track.

**Senator Kenny:** Bluntly put, do you not think this tends to make Parliament a bit irrelevant?

**Ms Robillard:** Why are you saying that?

**Senator Kenny:** The law is in the past, Minister. Surely we pass the laws first and then we spend the money after.

**Ms Robillard:** I would say that we can use other legitimate tools. Sometimes we use the legislation; sometimes we do not.

**Senator Kenny:** You feel this is best practices, Minister?

**Ms Robillard:** That was a cabinet decision.

In their respective Estimates for 2000 and 2001, the fiscal year for which Parliament was asked to allocate \$100 million for the foundation, Environment Canada and Natural Resources each set aside \$50 million for purposes of the foundation, which foundation was not authorized by Parliament prior to the end of that fiscal year. In their respective Estimates for the current fiscal year, each department repeats the \$50 million.

Honourable senators, how does one explain a budget item which has lapsed being shown in the Estimates for the following fiscal year for which there has yet to be a budget? How does one explain the transfer of public funds whether in the year for which they were intended, or the year later, to a private corporation without Parliament's approval of the objectives of that corporation?



We know the views of the Energy Committee, that the whole procedure is an affront to Parliament. Only yesterday the National Finance Committee tabled its report on the 2001-02 Estimates and came to this damning conclusion:

The members of the Committee condemn this process, which creates and funds a \$100-million agency without prior Parliamentary approval.

Honourable senators, if we support this bill, we will unashamedly support the government's blatant spending of public monies prior to parliamentary approval. The issue before us is not the purpose of the bill as such, but those clauses which ask us to give legitimacy, if not legality, to what has been an illegitimate if not illegal process. Monies have been transferred without parliamentary approval. It is as simple and as scandalous as that.

To support this bill is to make a mockery of any defence of Parliament's rights and prerogatives. To support this bill is to confirm executive arrogance and disdain for Parliament. To support this bill is to abdicate our fundamental responsibilities to the desires of an unaccountable executive. The issue before us is not the bill itself, although I do not support a policy of moving public funds into private corporations called on to carry out government policy that existing departments, as Senator Cochrane has pointed out, are perfectly capable of carrying out themselves.

The creation of semi-independent agencies and not directly accountable corporations is a form of privatization, the privatization of Parliament. The government likes to call it a partnership, but it is a partnership between government and the private sector and not what it should be, a partnership between Parliament and the private sector. However, this is a debate for another day.

The real issue before us is the relevancy of Parliament. In the other place, there is a growing frustration and disenchantment over the concentration of authority in the Prime Minister's Office. While here alarm has been raised many times over the number of bills which ignore the Senate as an equal to the House of Commons, as specified in the Constitution.

A vote in favour of Bill C-4 is a vote in approval of the government's shameless disregard for basic conventions. Funds were allocated which have yet to receive Royal Assent. The pertinent bill for the Estimates, a supply bill, was tabled today for discussion later today and tomorrow, that is Bill C-29. That is where the \$50 million or \$100 million is, whether it receives budgetary support or not. We have yet to give that bill Royal Assent.

In the last fiscal year, Natural Resources and Environment each set aside \$50 million for the foundation, as allowed in the budget for that year. In the current fiscal year, as I said before, each department shows \$50 million again. Where is the authority? There has been no budget this year. What right allows

the transfer of certain funds to a private corporation when this year's Estimates have yet to be approved?

By what right has a private corporation to carry on as an agent of Parliament, when Parliament has not given that corporation the authority? What has the corporation done since March 8, 2001? Has it hired staff, rented office space or prepared documentation for applicants? What has happened to the funds transferred to it that Parliament has not authorized?

Honourable senators, there are too many unanswered questions and I have given but a few of them. This is simply not the appropriate time to vote on Bill C-4. Nor can we ignore the condemnation of the government's actions by two of our standing committees. These were unanimous observations, without dissent. We cannot ignore the obvious discomfort, to put it mildly, of the Auditor General designate.

As a number of matters raised in the Senate were not brought to the attention of the members in the other place when Bill C-4 was being debated there, it is only appropriate that they be acquainted with them and allowed to reconsider their vote in light of the information before the Senate.

#### MOTION IN AMENDMENT

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, pursuant to rule 59(1), seconded by the Honourable Senator Cochrane, I move:

That Bill C-4 be not now read the third time, but that it be referred back to the House of Commons for further study.

• (1620)

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Will those honourable senators in favour of the motion please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those honourable senators opposed to the motion please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "nays" have it.

*And two honourable senators having risen:*

**Hon. Anne C. Cools:** Honourable senators, there is a structural problem. It is not possible to refer a bill to the House of Commons.



**The Hon. the Speaker:** I have put the question. Senator Cools. The voice vote has been taken and now it is my duty to call in the senators and to ask for the bells to be rung. I will take my seat in a moment to see whether there is an agreement on the time for bells.

**Hon. Mabel M. DeWare:** Honourable senators, pursuant to rule 67(1), I wish to defer this vote until tomorrow at three o'clock, with a half-hour bell, if my colleague will agree to the time.

**Hon. Bill Rompkey:** We are agreeable to that, honourable senators.

**The Hon. the Speaker:** The question has been put. Two senators have risen and there is to be a vote. The vote is deferred not to 5:30 p.m., as the rules provide, but to three o'clock, by agreement and consent of the house. Therefore, the bells will ring at 2:30 p.m. for a vote at three o'clock. Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

[Translation]

## YOUTH CRIMINAL JUSTICE BILL

### SECOND READING—ORDER STANDS

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the second reading of Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, as regards Item No. 4 on the Order Paper, resuming the debate at second reading of Bill C-7, in respect of criminal justice for young persons, could the honourable senators opposite advise us when they will be ready for debate on second reading?

We received the bill on May 30. On June 5, the Honourable Senator Pearson moved second reading, and at the end of her speech, the debate was adjourned. Many senators would like to move forward with this bill, because it is an important piece of legislation.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I thank the Deputy Leader of the Government for his question. I am pleased to inform you that Senator Andreychuk has begun an in-depth review of this bill. However, honourable senators will understand that, since we do not enjoy the support of all the departments as our colleagues opposite do, we must conduct our own research.

Senator Andreychuk, a former judge, is very knowledgeable about this area of the law. Her speech concerning the explanation of the principle underlying this bill will be vital. If senators

opposite wish to speak now at second reading stage, we are prepared to give up our colleague's position, provided that, as opposition critic, she is allowed to keep her allotted 45 minutes.

**Senator Robichaud:** Honourable senators, I am still waiting for the answer to my question. From what he has said, Senator Kinsella is inviting us to continue the debate. We are in agreement. If senators on this side wish to speak, we will still leave the senator opposite 45 minutes to state her position. Before proceeding, however, my colleagues on this side of the chamber would still like to know what the opposition's position is. May we expect them to reveal it in a sitting in the near future?

**Senator Kinsella:** Honourable senators, as one of my professors taught me, it is always better to speak from the point of view of a historian than that of a prophet. I hope that Senator Andreychuk will be ready, if not next week, then the week after that, but within a reasonable amount of time.

Order stands

[English]

## APPROPRIATION BILL NO. 2, 2001-02

### SECOND READING—DEBATE ADJOURNED

**Hon. Isobel Finnerty** moved second reading of Bill C-29, for granting to Her Majesty certain sums of money for the Public Service of Canada for the financial year ending March 31, 2002.

She said: Honourable senators, this bill, Appropriation Act No. 2, 2001-02, provides for the release of full supply for the 2001-02 Main Estimates a total of \$36.1 billion. The Main Estimates were tabled here and in the other place on February 27.

The 2001-02 Main Estimates total \$165.2 billion, an increase of 5.8 per cent over the 2000-01 Main Estimates. This reflects the expenditure plan set in the Minister of Finance's October 2000 Economic Statement and Budget Update. It includes provisions for spending under statutory programs and for authorities sought through Supplementary Estimates. The budget update also provides for the revaluation of the government's assets and liabilities, and allows for the anticipated lapse of spending authority.

• (1630)

The Estimates include information on budgetary and non-budgetary spending authorities. Appropriation Act No. 1, 2001-02, provided for the release of the Interim Supply for 2001-02 Main Estimates amounting to \$16.3 billion. Interim Supply received Royal Assent on March 30, 2001. Parliament is now being asked to consider the appropriation bill for Full Supply, the remaining portion of spending appropriated annually.

Budgetary expenditures include servicing the public debt, operating and capital expenditures, transfer payments and payments to Crown corporations. Non-budgetary expenditures include loans, investments and advances.

These Main Estimates support the request for parliamentary authority to spend \$52.4 billion under the program authorities. The remaining \$112.8 billion is statutory.

The following is an overview of the 2000-02 Main Estimates.

Major increases: \$3.8 billion for the Canada Health and Social Transfer payments to the provinces; \$1.4 billion for direct transfers to individuals, such as Old Age Security; \$957 million for fiscal equalization payments to the provinces; \$596.1 million for National Defence spending; \$360.3 million for the new Infrastructure Canada Program; \$283.8 million for salary increases, including funds for the salaries of judges and RCMP members, and related employee benefit costs; \$200 million for Government Contingencies, Vote 5, relative to such items as the amount and timing of claims settlements for First Nations; \$195.2 million for employee contributions to insurance plans for public service employees; \$143.8 million for the international assistance envelope; \$120 million relating to the implementation of the Canadian Research Chairs Program; \$116.2 million to carry out the 2001 census of the population scheduled for May 15, 2001; \$114.9 million for Indian and Inuit programming initiatives to help Indians and Inuit achieve self-government and economic, social and cultural aspirations; \$107 million relating to the establishment of the new Agricultural Risk Management Program; and \$100 million for transfer payments to territorial governments.

Major decreases: \$505 million due to the sunseting of the Agricultural Income Disaster Assistance program; \$300 million for reduced forecast of public debt, interest and servicing costs; \$265.7 million for the decrease in resource assistance activities in Kosovo as well as the termination of the Canadian Forces presence in Kosovo; \$245 million for the reduction in grants to trustees with Registered Education Savings Plans; \$204 million for the Canada Student Loans Program; \$191 million for the decrease in grants and contributions programs to provinces under the terms of the Disaster Financial Assistance Arrangements; \$165.8 million for the encashment of demand notes by the international financial institutions; \$115.4 million for the decrease in budgetary payments to various international financial institutions; and \$101 million for reduced requirements under the School Net Community Access Program.

With respect to non-budgetary Main Estimates, the major increase is \$1.9 billion for the estimated direction to students under the new direct financing arrangements of the Canada Student Loans Program. The major decrease is \$437.9 million in non-budgetary payments to a variety of international financial institutions.

Honourable senators, should you require additional information, I would be pleased to provide it to you.

On motion of Senator Kinsella, for Senator Murray, debate adjourned

## BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(*Honourable Senator Cools*).

**Hon. Anne C. Cools:** Honourable senators, I rise to speak to the second reading of my bill, Bill S-9, to remove certain doubts regarding the meaning of marriage. Bill S-9 will create a statute called An Act respecting marriage. Its short title will be the Marriage Act.

Bill S-9 is a consequence of the Modernization of Benefits and Obligations Act enacted in June 2000. That omnibus act amended numerous statutes in respect of same-sex benefits and pensions. Its section 1.1 set out the meaning of marriage as an interpretation tool for the purposes of that particular act and distinguished marriage as unique to man and woman. Section 1.1 stated:

For greater certainty, the amendments made by this Act do not affect the meaning of the word “marriage”, that is, the lawful union of one man and one woman to the exclusion of all others.

Those words “one man and one woman to the exclusion of all others” are from the 1866 judgement in the case of *Hyde v. Hyde* in the United Kingdom’s Courts of Probate and Divorce. Believing that it would be consistent and appropriate that very same meaning of marriage should be set out in an act specific to marriage, I have developed Bill S-9 and have placed it before the Senate. Bill S-9 will create a specific Marriage Act that is also based on *Hyde v. Hyde*’s definition of marriage as the lawful union of one man and one woman. I shall provide the Senate with a historical and legal analysis of marriage as a societal phenomenon that is foundational to society itself.

Honourable senators, I shall begin with one example of a church marriage service, being the 1549 Anglican Church’s *Book of Common Prayer*, which calls it “The Form of Solemnization of Matrimony.” This service begins:

Dearly beloved, we are gathered together here in the sight of God, and in the face of this Congregation, to join together this man and this woman in holy Matrimony, which is an honourable estate, instituted of God...

These are familiar and ancient words repeated by and to generations.



The *Book of Common Prayer* service tells the purpose of marriage, saying:

Matrimony was ordained for the hallowing of the union betwixt man and woman, for the procreation of children to be brought up in the fear and nurture of the Lord;...

The *Book of Common Prayer* service's Gospel reading Mathew, chapter 19, verses 4 to 6, repeats this saying:

Jesus answered and said unto them, Have ye not read, that he which made them at the beginning made them male and female, and said, For this cause shall a man leave father and mother, and shall cleave to his wife: and they twain shall be one flesh? Wherefore they are no more twain, but one flesh.

All the major religions of the world that form the basis of our Canadian heritage have similarly upheld marriage as between man and woman. Marriage is a solemn act with a profound social purpose. Marriage was also a sacrament that hallowed the unique ability of the sexual union of man and woman to bring forth issue, to procreate, that is, reproduction. The public interest in marriage is reproduction, the continuation of the species, the offspring. There is no public interest in sex or the gratification of sexual impulses for their own sake. The law's interest is the public interest in the continuation of the species and the children.

Honourable senators, a word now about reproduction and conjugal sex. In the Senate, I have maintained that the term "conjugal" is a term of matrimonial law and that conjugal sex is unique to the male and female sexual union. I had opposed the statutory use of this matrimonial law term "conjugal" to describe homosexual sexual relationships in the Modernization of Benefits and Obligations Act. I believe that such drafting was intended to create conditions for court challenges and judgements and that such drafting is intended to defeat marriage as between a man and a woman.

I had said that conjugation means genetic mixing. In biology, *The Shorter Oxford English Dictionary* defines "conjugation" as the union of two cells for reproduction. In biology, conjugation is the act of genetic recombination; that is, the recombination of genetic materials. A consequence of this genetic mixing is the production of offspring called children in the human species. Being of the same species, human offspring are similar to both parents, but though of the same species, on an individual basis, each offspring is a unique organism and a unique person.

Honourable senators, the prerequisite condition, the condition absolutely necessary for genetic recombination in humans — that is, for procreation — is the existence of two different mating types. For procreation or reproduction to occur, there must be two mating types of the same species, but yet two different mating types. They must be different from each other biologically, different in both mating capacity and different in

mating function. This difference means a male and a female. The two necessary mating types are a genetic donor, typically described as male, a man; and a genetic recipient, typically described as female, a woman. This fusion of genetic materials is the process of genetic recombination. It is a recombination of genetic materials from both a man and a woman. It follows then, that biological conjugation, genetic recombination, simply is not possible where two organisms are of the same mating type — a condition described as homosexuality. Homosexual sexual activities cannot be conjugal for the purposes of mating because two homosexuals are of the same mating type. Consequently, homosexual sexual activities and relationships cannot be conjugal relationships because they cannot conjugate.

Honourable senators, I come now to our Constitution. The British North America Act, 1867, section 91(26) sets out "Marriage and Divorce" and assigned it to the powers of the Parliament of Canada. The BNA Act, section 92(12), sets out "The Solemnization of Marriage in the Province" and assigned it to the powers of provincial legislatures. The history of this separation between the whole marriage and divorce, and the solemnization of marriage alone needs to be told. To do this, we must look to the Fathers of Confederation, the Confederation Conferences, and to the Confederation Debates, all between 1864 and 1867. At the Quebec Conference in October 1864, the subject of marriage and divorce had been wholly assigned to Parliament. At Quebec, in those resolutions, there had been no separate category on the solemnization of marriage. This separation only happened at London. Between the 1864 Quebec conference and the 1866 London conference, events and politics, including the Confederation debates had occurred. These events resulted, at the London conference, in the Fathers of Confederation cutting out the peculiar power of the "solemnization of marriage" from the general power of "marriage and divorce," and assigning it to the local legislature as a separate legal and constitutional category. The solemnization of marriage attained its own constitutional category for some very profound reasons that were mostly religious and moral.

Honourable senators, I come now to the Confederation debates on the seventy-two Quebec resolutions, being the 1865 debates in the Legislative Council and the Legislative Assembly of the United Province of Canada. On February 3, 1865, in the Legislative Council, Sir Étienne Taché, Premier of the Province of Canada, moved the motion for the debate on those 1864 Quebec resolutions. That same day, on February 3, three days before debate in the Legislative Assembly was to begin, Mr. Cauchon, a Quebec member from Montmorency asked a question of John A. Macdonald, then Attorney General of Canada West, about the law of marriage. Mr. Cauchon asked whether marriage was assigned to the general Parliament or to the local legislatures. About Mr. Cauchon, the debates, as recorded in Parliamentary Debates on the Subject of the Confederation of the British North American Provinces, report that:



There were part of the resolutions about which there might be some misunderstanding and difference of opinion, as for example those clauses by one of which it was stated that the civil laws of the country were to be under the control of the local governments, and by the other of which the law of marriage was placed under the control of the General Government. The law of marriage pervaded the whole civil code, and he wanted to know how it could be placed under a different legislature from that which was to regulate the rest of the civil law.

Mr. Cauchon's questions were pivotal. Three days later, on February 6, 1865, John A. Macdonald began the debate in the Legislative Assembly on the same motion on the Quebec resolutions already under debate in the Legislative Council. The French Canadian Roman Catholics caused debate on marriage. On February 21, 1865, in the Legislative Assembly, Hector Langevin, then Solicitor General for Canada East, explained marriage by saying:

With the view of being more explicit, I now propose to read how the word marriage is proposed to be understood:

The word marriage has been placed in the draft of the proposed Constitution to invest the Federal Parliament with the right of declaring what marriages shall be held and deemed to be valid throughout the whole extent of the Confederacy, without, however, interfering in any particular with the doctrines or rites of the religious creeds to which the contracting parties may belong.

This is a point of great importance, and the French Canadian members ought to rejoice to see that their fellow-countrymen in the Government have not failed in their duty on a question of so serious a nature.

The Fathers of Confederation were attentive to the religious needs of their followers. On February 20, 1865, in closing debate, Premier Taché said:

If the honourable gentleman will but take his pen, he will be able to note my answer: The word ...marriage\* has been inserted to give the General Legislature the right to decide what form of marriage will be legal in all parts of the Confederation, without in any way interfering with the rules and prescriptions of the Church to which the contracting parties belong.

The French Canadian Roman Catholic concerns would prevail at the 1866 London Conference.

Honourable senators, in 1866, in London, England, at the London conference, the Fathers of Confederation cut out the solemnization of marriage from marriage and divorce and assigned it to the local or provincial legislatures. The London Conference's resolution had used the phrase "Property and civil rights, including the solemnization of marriage." The first draft

of the bill, dated January 23, 1867, changed this, so that the solemnization of marriage attained its own category distinct from property and civil rights. Section 37(12) "The Solemnization of Marriage in the Province," and section 37(13) "Property and Civil Rights in the Province." This structural and constitutional difference between the dominion's powers in "marriage and divorce," and the provincial legislative powers in the "solemnization of marriage," was maintained throughout the next several drafts of the BNA Act. I believe, honourable senators, there were seven or eight drafts in all.

On February 12, 1867, Lord Carnarvon, the Secretary of State for the Colonies, introduced the BNA Act in the United Kingdom's House of Lords. Weeks later, on February 26, 1867, it was introduced in the House of Commons. The BNA Act received Royal Assent on March 29, 1867, and was proclaimed on July 1, 1867, Dominion Day, now called Canada Day.

Honourable senators, Sir John A. Macdonald always maintained that the power given to the local legislatures on the solemnization of marriage was inserted in the BNA Act at the instance of the representatives of Lower Canada, who, as Roman Catholics, desired to guard against laws legalizing civil marriages without their clergymen or their religious rites. They desired that the legislature of each province should deal with this religious portion of the law of marriage, being solemnization. To the Parliament of Canada was left the power over all legislative matters relating to the status of marriage, specifically between what persons and under what circumstances marriage shall be created.

Honourable senators, Bill S-9 will re-establish the Marriage Act and legislate that marriage is between one man and one woman, as based on *Hyde v. Hyde*. Bill S-9's clause 3 states in part that:

Marriage has the meaning declared in the 1866 decision of *Hyde v. Hyde* in the Courts of Probate and Divorce in the United Kingdom, and as understood in sections 91 and 92 of the *Constitution Act, 1867*, being a voluntary union of one man and one woman as husband and wife to the exclusion of all others...

• (1650)

*Hyde v. Hyde* is and was the definitive judgment on the meaning of marriage. My bill simply upholds and declares that fact. My bill is based on Minister of Justice Anne McLellan's definition drafted from *Hyde v. Hyde* into the Modernization of Benefits and Obligations Act passed last year. I also based it on the minister's words in the House of Commons debate on marriage in June 1999.

In the House of Commons, on June 8, 1999, Minister McLellan spoke on a resolution on marriage proposed by Eric Lowther, then Reform Member for Calgary Centre. That resolution said:

That, in the opinion of this House, it is necessary, in light of public debate around recent court decisions, to state that marriage is and should remain the union of one man and one woman to the exclusion of all others, and that Parliament will take all necessary steps to preserve this definition of marriage in Canada.

The minister thanked Eric Lowther, saying:

I would like to thank the hon. member...for giving the government the opportunity to clarify our position on this important issue.

Minister McLellan continued:

The definition of marriage, which has been consistently applied in Canada, comes from an 1866 British case which holds that marriage is "the union of one man and one woman to the exclusion of all others". That case and that definition are considered clear law by ordinary Canadians, by academics and by the courts. The courts have upheld the constitutionality of that definition.

She then told the House of Commons that the Ontario Divisional Court had upheld the constitutionality of that definition of marriage in the 1993 case *Layland v. Ontario*. She quoted Mr. Justice Southey's judgment that:

Unions of persons of the same sex are not "marriages", because of the definition of marriage. The applicants are, in effect, seeking to use s.15 of the Charter to bring about a change in the definition of marriage. I do not think the Charter has that effect.

In concluding, the minister said:

I support the motion for maintaining the clear legal definition of marriage in Canada as the union of one man and one woman to the exclusion of all others.

This motion carried on June 8, 1999 by a vote of 216 to 55. A few months later, in March 2000, as a result of that, the Minister of Justice was compelled to amend the Modernization of Benefits and Obligations Act to include this definition of marriage while the bill was in Commons committee.

Honourable senators, I also note that about two months ago we passed the Federal Law-Civil Law Harmonization Act, No. 1, section 5 of which, with regard to marriage, stated:

Marriage requires the free and enlightened consent of a man and a woman to be the spouse of the other.

By this, the government has now recently used *Hyde v. Hyde*'s definition of marriage in two different federal statutes. This reveals the need for a specific marriage act. Bill S-9 is that, and it

merely confirms the definition of marriage as it already existed in law and as it was intended in the British North America Act, 1867.

Honourable senators, Bill S-9 places the meaning of marriage, as per *Hyde v. Hyde*, into statute with the title the Marriage Act. The bill is declaratory of the law as it has stood. I shall cite the precise words from *Hyde v. Hyde* as delivered in judgment in 1866 by Lord Penzance, the eminent jurist. Lord Penzance said:

I conceive that marriage...be defined as the voluntary union for life of one man and one woman, to the exclusion of all others.

Undoubtedly, the Fathers of Confederation, particularly John A. Macdonald, Hector Langevin, and also Lord Carnarvon, the sponsor of the act in 1867, were all informed of Lord Penzance's 1866 ruling in *Hyde v. Hyde*. Undoubtedly, the meaning of marriage in the BNA Act 1867's sections 91 and 92 is that which the Fathers of Confederation had intended and meant, namely, as between "one man and one woman."

Honourable senators, a marriage is a public act simultaneously combining a personal rite of passage with the force of law. A marriage is no ordinary contract. Marriage cannot be entered into simply by the consent of the contracting parties, and no agreement between the parties can alter its terms and conditions. Further, a marriage cannot be dissolved or terminated by simple agreement of the parties. Clearly, the word "contract" in respect of marriage is not always helpful and often insufficient to explain marriage socially, legally and constitutionally.

Honourable senators, I come now to the nature of marriage. I shall cite two other celebrated judgments, one by the same Lord Penzance later in 1870, and the other by Lord Birkenhead in 1922. In *Mordaunt v. Mordaunt*, in the Courts of Probate and Divorce, Lord Penzance posed an important question, being whether "...marriage is an ordinary contract?" Lord Penzance answered the question thus:

Marriage is an institution. It confers a status on the parties to it, and upon the children that issue from it. Though entered into by individuals, it has a public character. It is the basis upon which the framework of civilized society is built; and, as such, is subject in all countries to general laws which dictate and control its obligations and incidents, independently of the volition of those who enter upon it. Marriage, moreover, has features, which belong to no other contract whatever; ...

In the 1922 House of Lords case *Rutherford v. Richardson*, Lord Chancellor, Lord Birkenhead said:

...marriage is more than a simple contract between spouses, or a thing which they can dissolve by their own acts and choice, even consensually. It is a status, involving other and more important interests...



I ask senators to direct their minds to the social and legal constructs, being "status" and the "other and more important interests." Marriage confers a civil status. Further, the more important interests are best described as the public character of marriage and the nature of marriage itself as a public act.

Honourable senators, I come now to the civil status and those more important interests. These are the public interests, formerly described as the public good, the common good. The public good in marriage is the procreation of children and the public protection of that sexual act which causes procreation. It is that which attaches the law and Her Majesty's agreement. Marriage is no mere mutual agreement between a couple. It is an agreement among three parties, not two. There are three parties to a marriage as there are to a divorce. The third party in every marriage is Her Majesty the Queen. The Queen, embodying the public character, is a party to every marriage as to every divorce. It is under the law of the Royal Prerogative that marriage in Canada is performed. The Royal Prerogative grants licences to clergymen and commissions to judges and justices of the peace to perform marriages. The Royal Prerogative vests legal and civil authority in them to perform marriages, to pronounce persons married and to confer on married persons a peculiar civil status. The grant of licences and commissions are acts of the Royal Prerogative. Marriages can only be performed, that is, solemnized by persons licensed or commissioned by Her Majesty the Queen. The power to perform marriage, to join persons in marriage, is the Queen's Royal Prerogative. After the conquest of 1759, this prerogative power in 1763 was vested, by royal commission, in the then Governor-in-Chief of Quebec, Captain James Murray. On Confederation in 1867, that prerogative power by commission was vested in Governor General Monck, the Queen's representative and the first Governor General of Canada. That prerogative power is still held by the Queen and her representatives. The sovereign, the Queen, holds an absolute interest, the public interest, in every marriage. By the Royal Prerogative, in Canada our Constitution has given the Queen and her representatives special powers in these life and death questions. In the marriage law, that prerogative power has buttressed marriage as the protector of life itself. The Queen's prerogative powers protect and superintend the continuation of the species.

Honourable senators, the determination of who may marry is a power reserved exclusively to the Law of the Prerogative, *lex prerogativa*, and the Law of Parliament, *lex parliamenti*. The courts have no constitutional power whatsoever to determine the civil status of marriage, the public character of marriage, or those persons who may marry. My bill's preamble, in its fifth paragraph, states:

AND WHEREAS it is expedient that the meaning of marriage as public policy be determined by the Parliament of Canada because marriage is a matter and a cause that is cognizable only by the High Court of Parliament;

I repeat, the meaning of marriage is a cause cognizable only by the High Court of Parliament.

The constitutional power to determine who may marry, that is, the legal capacity to marry, rests not with the courts but with Parliament and the Queen. In the law of marriage, Her Majesty holds two constitutional roles, a double constitutional role: one as the enacting power of Parliament in the Royal Prerogative of Royal Assent to bills, and, secondly, in the act of marrying people in the Royal Prerogative of license and assent to marriage.

Honourable senators, marriage is the permanent union of a man and a woman, moved by the instinct of reproduction. Marriage is that legal, civil and religious arrangement which has sustained and maintained the sexual union of a man and a woman.

Historically and legally, marriage had been a sacrament of the Church and the sole sexual union supported by the law or by the Church. The lust for sex, the sexual impulse, or sexual drives are supported nowhere else in law. In fact, the law has always eschewed lust and sought to constrain and limit lust. The law understands that sexual impulses have no limits and that left to their own will and devices can become inordinate. The lust for sex, for sexual gratification, unbounded and unbridled by social and legal boundaries, is antisocial. Such unbridled lusts can be socially disastrous because of the very nature of lust itself.

Human lust is actuated by strong primitive instinctual cravings, impulses and urges. These urges are powerful and profound and can become ungovernable. It was to the governance of one sexual urge, the man and woman sexual union and its procreation factor, that marriage was developed. Marriage was developed for the protection of the function of procreation, for the continuation of the species, and the securing of property therein. Marriage is about the governance of that powerful organic force between men and women, that force of nature which is driven by nature's sexual instinct to bring forth offspring, to reproduce. It is a powerful instinct and not totally understood. Marriage purports to be the healthy condition for the proper exercise of those sexual functions to which the reproduction of the species has been entrusted. Marriage attempts to limit the negative, even contrary effects of the abuse of those sexual functions to which reproduction has been entrusted.

Honourable senators, little is known about the origins of the moral life and behaviour of human beings. However, we do know that primitive morality developed around the preservation of life, meaning food usage, and around the preservation of the species, being procreation. Around the satisfaction of these instinctual needs, we find a knitting together of the instinctual processes around pregnancy, birth, puberty, marriage and death as being encounters in which human beings are forced to confront the sacred and the divine. These instinctual processes were all bound up with the great instinctual preoccupation of self-preservation and the preservation of the species. Consequently, these human impulses, including human sexual needs, also gathered to themselves much moral thought, moral code, and eventually regulation and even law.



Life and the handing on of life are two vital societal interests. Primitive morality with its primitive taboos and customs eventually developed over millennia into the mature body of law called the law of marriage. The law on marriage was assembled for good reason and is constitutionally protected by Parliament and Her Majesty the Queen. Human life is so vital and the man-woman sexual act in procreation is so pivotal that the body of law called the law of marriage buttressed this sexual act. It did so because the law understood that lust, like all human passions, is not to be trusted. Lust and sex on their own have no public character and contain no public interest or public good. Marriage is about man and woman in a peculiar act of bringing forth offspring.

Honourable senators, I thank Senator Wiebe for seconding this bill. I thank all honourable senators for their attention and I urge all honourable senators to support my Bill S-9.

**Hon. Jack Wiebe:** Honourable senators, it is my great privilege to have the opportunity to second this particular bill, Bill S-9. It is my intention to contribute to the debate, but like my colleague from Saskatchewan, Senator Andreychuk, I wish to study quite seriously the content of Senator Cools' remarks and would hope to make my comments some time next week. In that case, I move the adjournment of the debate.

On motion of Senator Wiebe, debate adjourned.

### STUDY OF HEALTH CARE SYSTEM

#### BUDGET AND REQUEST FOR AUTHORITY TO TRAVEL—REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Social Affairs, Science and Technology (budget—release of additional funds) presented in the Senate on June 12, 2001.—(*Honourable Senator Kirby*).

**Hon. Marjory LeBreton** moved the adoption of the report.

Motion agreed to and report adopted.

### OFFICIAL LANGUAGES

#### BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES—REPORT "A" OF JOINT COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report (A) of the Standing Joint Committee on Official Languages (budget) presented in the Senate on June 12, 2001.—(*Honourable Senator Maheu*).

**Hon. Shirley Maheu** moved the adoption of the report.

Motion agreed to and report adopted.

### STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE

#### BUDGET—REPORT OF FOREIGN AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Foreign Affairs (budget—release of additional funds) presented in the Senate on June 12, 2001.—(*Honourable Senator Stollery*).

**Hon. Peter A. Stollery** moved the adoption of the report.

Motion agreed to and report adopted.

### ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

#### BUDGET AND REQUEST FOR AUTHORITY TO TRAVEL—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the seventh report of the Standing Senate Committee on Energy, the Environment and Natural Resources (budget—release of additional funds) presented in the Senate on June 12, 2001.—(*Honourable Senator Taylor*).

**Hon. Nicholas W. Taylor** moved the adoption of the report.

Motion agreed to and report adopted.

### STUDY ON STATE OF FEDERAL GOVERNMENT POLICY ON PRESERVATION AND PROMOTION OF CANADIAN DISTINCTIVENESS

#### BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES—REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Senate Committee on Social Affairs, Science and Technology (budget—special study on Canadian identity) presented in the Senate on May 16, 2001.—(*Honourable Senator Kirby*).

**Hon. Marjory LeBreton** moved the adoption of the report.

Motion agreed to and report adopted.

### DEFERRED MAINTENANCE COSTS IN CANADIAN POST-SECONDARY INSTITUTIONS

#### INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Moore calling the attention of the Senate to the emerging issue of deferred maintenance costs in Canada's post-secondary institutions.—(*Honourable Senator Austin, P.C.*).

**Hon. Norman K. Atkins:** Honourable senators, it gives me great pleasure today to join in the inquiry started by Senator Moore regarding the problems that beset our post-secondary educational institutions in Canada because of the enormous costs associated with deferred maintenance.

I want to thank Senator Moore for raising this issue because I believe it complements the issue of student debt and the problems associated with the Canada Student Loans Program, which I tried to highlight in an inquiry that I initiated in the last Parliament.

My purpose in joining in the inquiry today is to broaden the debate. You can be assured, honorable senators, that I am not proposing any amendments to the inquiry. I wish to lend my support to what I hope will be the natural conclusion of this inquiry. That conclusion should be a referral of all the funding issues concerning post-secondary education to the Standing Senate Committee on National Finance.

Honourable senators, as horrendous as the problems associated with the lack of regular maintenance on our post-secondary institutions are, they are symptomatic of the larger problems that beset these institutions, their faculty and students. I do not believe you can study and attempt to resolve one issue or problem in isolation from the others.

We need a definitive vision as to the future of post-secondary education in Canada. The base from which I think we must begin to address the problem is to decide as a nation what role post-secondary education is to play in our future prosperity and then build upon that role accordingly.

In building on that role, we must address four related matters. I list them in no particular order of importance. They are equally important.

The first is the crumbling infrastructure of post-secondary educational institutions, which Senator Moore has raised in this inquiry. The second is the serious shortage of professors now and in the indefinite future. The third is the combined issues of student debt and how qualified students in financial need are to be guaranteed access to post-secondary education. The fourth is the funding of university research.

All of these problems could probably be solved if someone would write a great big cheque. The problem is that there does not seem to be any one body, be it government or otherwise, willing to do so. Our job in discussing these issues is to first identify what we are trying to accomplish by post-secondary education — our vision — and then devise new innovative ways to tackle the issue of funding, which, in turn, will begin to resolve the four issues that I have raised.

For a vision, we could do no better than to revisit the report to which Senator Andreychuk referred in her intervention on this inquiry. I speak of "A Senate Report on Post-Secondary Education in Canada" produced by the Special Senate Committee on Post-Secondary Education chaired by two

senators, now retired, Senator M. Lorne Bonnell and Senator Thérèse Lavoie-Roux.

On page 3, that report states, in part:

We envision a post-secondary capacity of national scope which, to the fullest extent that resources permit, is characterized by:

- research and development at the highest standard, making original contributions to the global understanding of ourselves and others...

- programs of education and training beyond secondary school the quality of which rivals the best of those available elsewhere, that collectively encompass all disciplines and levels of post-secondary study, and that serves the many purposes of learning — for democratic citizenship, for personal development, for employment, and for sheer enjoyment and enrichment.

If that is our vision, how do we address the main problems in post-secondary. First, we must set aside jurisdictional squabbles. These are national issues, and it will take a Canada-wide plan to address them. From the federal government, we need to explore restoring the cash portion of the CHST to at least 1993-1994 levels immediately.

If we are interested in addressing the problems of post-secondary education, however, we must ensure that a certain percentage of this money actually goes into post-secondary education. The problems are real. They must be recognized as real. If we are to specifically address them, it perhaps would mean that we return to conditional grants.

While those who have spoken so eloquently before me have addressed in details the problems of deferred maintenance, I would like to take a few minutes to add a few comments to that debate. I would also like to outline the other issues that must be dealt with if we are to arrive at a holistic solution to the post-secondary issues in Canada.

The need for additional university and college professors in Canada is well present in "Faculty Renewal, the Numbers, the Direction," published by the Association of Universities and Colleges of Canada. The situation with regard to university faculty is particularly troubling. Between 1992 and 1997, there was a 10 per cent reduction in the number of faculty at Canadian universities, while full-time student enrolment rates have remained stable. Universities will have to hire more than 12,000 new faculty members over the next 10 years to meet increased enrolment demands and to replace those faculty who were cut back throughout the 1990s.

In addition, about 20,000 faculty will need to be hired to replace a large cohort of faculty members who will be retiring. Canadian universities will need to compete internationally to gain these 32,000 new faculty members. That is a staggering challenge, considering that there are only 33,000 faculty in Canadian universities at present.



How will we attract quality professors? We must recognize that Canadian universities are competing in the global marketplace. There are few incentives to stay in university today. The obvious answer is money. We must provide well-resourced research/work facilities with the latest equipment, libraries with current materials and campuses where shingles are not falling off the roof. Universities must be resourced so that they can compete with the private sector.

• (1720)

Following up on this, I believe it is imperative that we review the way we deal with research grants. Such a review should also take into consideration the role of the private sector in both direct research and financial support.

Research grants awarded by the granting councils only contribute toward the direct costs of research. Since indirect costs can be substantial — for example, 40 per cent or more of the total direct costs — Canada is at a competitive disadvantage in relation to countries such as the United States and the United Kingdom where mechanisms for the funding of the total costs of research exist. In fact, U.S. universities enjoy a significant competitive advantage over Canada as they can invest the additional resources into research staff and students.

The recently announced program of 21st Century Chairs for Research Excellence allows for the compensation of researchers and for all costs associated with their research activities, such as administrative and research support. However, it will apply only to a maximum of 2,000 researchers, leaving such support absent for the other 30,000 professors and researchers in Canadian universities. For the most part, this will be absorbed by the larger universities. In order for the smaller universities to benefit, thought must be given to partnership with government and industry in the area of research and development.

I have spoken at length in this chamber about the problems of student debt and the need to find new ways to ensure access to post-secondary education by qualified students who lack financial resources. Therefore, I will briefly list some of the problems along with possible solutions.

Based on evidence given by the Canadian Federation of Students to the House of Commons Finance Committee, the average student debt upon graduation has increased from \$8,900 in 1990 to \$25,000 in 1998. It is higher now. This dramatic increase has put higher education out of reach for most low-income Canadians. These amounts must be paid back out of after-tax money, making it imperative that graduates have the opportunity to find satisfactory jobs.

Of the 29 members of the OECD, Canada and Japan are the only two countries without a national grants program. The Canadian Federation of Students, in its submission to the House

of Commons Standing Committee on Finance in the fall of last year, stressed that a needs-based program is the only method of ensuring that those Canadians who cannot afford the up-front costs of post-secondary education have access to the system.

A recent British Columbia study produced by the Minister of Advanced Education states that recent research shows that young people from low- and moderate-income families find costs a barrier to accessing and completing post-secondary studies. The university participation rate for 18- to 24-year-olds from lower socio-economic backgrounds has increased very little over the past eight years in comparison with learners from higher socio-economic backgrounds. Students from poorer families are staying away from higher education.

This is directly related, of course, to the fact that university tuition fees increased on average by more than 126 per cent since 1990, while community college students have been hit by even larger increases, over 200 per cent in some provinces.

The first issue to be addressed is to eliminate the taxable status of scholarships. The last federal budget increased the non-taxable threshold to \$3,000. It makes no sense for universities and community colleges to give money to students in the form of scholarships that then become taxable in the hands of the student. We should be rewarding academic excellence, not punishing it. Therefore, the Income Tax Act should be amended so that scholarships are not included in the taxable income of students.

It is legitimate from a jurisdictional point of view for the federal government to be involved in the student loans or grant program. Solving the problem of student funding once and for all cannot occur through half measures. It will require imagination and possibly the commitment of significant financial resources by government.

One method of raising separate, designated funds to be used to finance a student loans grant program would be for the federal government to sell a one-time savings bonds issue with the money raised designated for student loans grants.

Another alternative would be for the federal government to establish an autonomous agency or Crown corporation to manage the financing of student grants, scholarships and loans. The necessary funding would emanate from annual appropriations by Parliament and the sale of post-secondary education bonds.

A third alternative, and one I have floated before, is reinventing the program that was put in place at the end of the Second World War under the Veterans Rehabilitation Act, 1945. I thought about it today when Dr. Ralph DeWare was upstairs. He was one of the beneficiaries of that program when he went through medical school at Dalhousie, and Senator DeWare will attest to that.



Those veterans who indicated a desire to attend university had their tuition paid directly to the university by the Department of Veterans Affairs. They were given a living allowance on a monthly basis. This continued as long as satisfactory progress was made in university. This was a massive investment by the government in the future of the country, but because of its success, Canada had a well-educated, tax-paying population contributing positively to society just a few years after the end of World War II. Veterans graduated with an education or trade virtually debt-free.

The establishment of the Canada Education Assistance Trust would require a commitment by the federal government of, perhaps, \$1.5 billion on an annual basis. Now, annually, there are more than 700,000 students enrolled in some form of post-secondary education. Of that number, more than 300,000 annually seek financial assistance through existing programs, but these programs are not providing significant funding where necessary and are leaving students with crippling debt loads when they graduate.

Eligibility for the programs, I suggest, would obviously have to be determined based on certain established guidelines.

**The Hon. the Speaker:** I regret to interrupt the honourable senator, but his 15-minute time allocation has expired. Does he wish leave to continue?

**Senator Atkins:** Yes.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Atkins:** I thank honourable senators.

Eligibility for the program, I suggest, would obviously have to be determined based on certain established guidelines, and those eligible would have their tuition and a portion of their living expenses funded through this program. Tuition would be paid directly to the educational institution if that arrangement could be reached with the institute through a voucher system. It could be administered by the same bureaucracy established to deal with the Millennium Scholarship Fund with help from the educational institutions' Student Awards Office.

Repayment will only begin one year following the student obtaining full-time employment. Then and only then would interest be charged. However, all interest paid would form an income tax deduction, at least for the first 60 months of the repayment period. Initially, money would be given as a loan, but up to one-half the amount would be forgivable, perhaps 25 per cent of the amount if the student graduates on time and another 25 per cent if the student achieves reasonably high academic standing in two years of a four-year program. This would help with the repayment problems.

Finally, I will address the subject of Senator Moore's inquiry, the crumbling infrastructure of our post-secondary institutions resulting from deferred maintenance.

• (1730)

For the past 20 years, little has been spent on infrastructure, and the costs of renewal are mounting. Renewal includes everything from fixing a leaky roof to wiring for the Internet. New laboratories must be built and old ones refurbished, so that we can keep up with the needs of researchers. Money must be directed to make our institutions competitive on a global scale so that those wishing to do interesting and valuable research on a world-class scale have access to world-class facilities to explore their various areas of interest.

The need for infrastructure renewal, as senators have explained, is described in "A Point of No Return: The Urgent Need for Infrastructure Renewal at Canadian Universities," a study prepared by the Association of University Business Officers. They found that deferred maintenance on Canadian campuses totalled approximately \$3.5 billion, and it continues to grow. Nearly \$1 billion is needed immediately, since, as I pointed out, no one is ready to write a cheque. What do we do?

Senator Meighen, in his interventions in the debate, listed a number of innovative ways that our institutions could raise needed funds. Perhaps consideration could be given to issuing tax-exempt bonds, where interest earned is not taxable to the extent of the exemption. Consideration must be given to partnerships with the private sector. At the university I am most familiar with, Acadia, a whole new environmental science research complex is being built with money provided basically from one benefactor.

Another proposal could be in the form of matching grants. A capital renovation fund could be established by the federal government, and that fund could be accessed if the institution raised a certain amount of money to address its maintenance and infrastructure problems. Such a fund could focus on helping the smaller universities, who have difficulty competing for the large endowment funds currently enjoyed by, for example, the University of Toronto. Not all students are capable of flourishing in a large university, and that is why we should pay particular attention to the needs of smaller institutions.

No one disputes the issue of the cost required to put the physical plants of our post-secondary institutions back into the condition they should be in. The question is this: How are we to finance this enormous task?

Honourable senators, I thank Senator Moore for raising this issue. It should be dealt with in the larger context presented by other problems that our educational institutions are currently experiencing. All these matters are related and must be solved together, because the solution to one set of challenges may affect the solution to others. The greatest investment a taxpayer can make in the future of this country is an investment in education.

Those in school now will be our leaders in the next generation. They need a solid education to compete in the global marketplace. The education of our youth now represents the future of tomorrow.

Honourable senators, I support Senator Moore's desire to have these matters studied in depth by the Standing Senate Committee on National Finance.

**Hon. Wilfred P. Moore:** Honourable senators —

**The Hon. the Speaker:** I wish to advise the Honourable Senator Moore that, if he speaks now, he will be closing debate on his inquiry.

**Senator Moore:** In bringing this inquiry to a close, I wish to thank all honourable senators who participated in this debate. Eight colleagues have joined me in canvassing this important issue, including honourable senators from all regions of Canada. The debate has been stimulating and has resulted in various innovative approaches to this issue coming to the fore.

Later this day, I intend to move the motion in respect of this matter standing in my name. Should that motion enjoy the favour of this chamber, there will be an opportunity for other honourable senators to join in this debate at committee.

I thank all honourable senators for their participation in this inquiry, for their work in preparing and presenting their addresses and for the interest that they have encouraged in this matter in the university community across Canada.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** This inquiry is now considered debated.

## RECOGNITION AND COMMEMORATION OF ARMENIAN GENOCIDE

### MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Setlakwe:

That this House:

(a) Calls upon the Government of Canada to recognize the genocide of the Armenians and to condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity;

(b) Designates April 24th of every year hereafter throughout Canada as a day of remembrance of the 1.5 million Armenians who fell victim to the first genocide of the twentieth century.—(*Honourable Senator Bacon*).

**Hon. Serge Joyal:** I wish to speak today on behalf of the motion by Senator Maheu and Senator Setlakwe to recognize the Armenian genocide that took place primarily in Anatolia between 1915 and 1923. In 1918, Theodore Roosevelt stated:

The Armenian massacre was the greatest crime of the war, and the failure to act against Turkey is to condone it...the failure to deal radically with the Turkish horror means that all talk of guaranteeing the future peace of the world is mischievous nonsense.

It is now estimated that between 1 and 1.5 million Armenians were exiled or murdered by the Ottoman Empire.

This afternoon, I intend to address three questions: Did the genocide actually happen? What are the implications of publicly recognizing it? What is the position that we senators should formally adopt?

How does one define "genocide?" In everyday language, the term is defined in the *Encyclopaedia Britannica* as "the deliberate and systematic destruction of a racial, political or ethnic group." The word "genocide" comes from the Greek word *genos*, meaning "race," "nation" or "tribe," and the Latin word, *cide*, meaning "killing." It was coined by Raphael Lemkin — who is being remembered at a ceremony at the UN today — after events in Europe in 1933-45 called for a legal concept to describe "the deliberate destruction of large groups."

There is also a precise definition contained in the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide, and Senator Maheu has already cited that definition.

Did the Armenian genocide actually happen? One cannot dispute the overwhelming historical evidence that the Armenian genocide did, in fact, occur. This horrific tragedy happened and has been confirmed by eyewitness accounts, by the initial political settlement of World War I and by subsequent academic studies.

Allow me to bring the attention of honourable senators to a few samples of the contemporary evidence that has been brought forward.

• (1740)

To begin with, there are eyewitness accounts of the genocide. The U.S. ambassador to the Ottoman Empire in 1915, Mr. Henry Morgenthau, later wrote in his memoirs that:

When the Turkish authorities gave the orders for these deportations, they were merely giving the death warrant to a whole race. They understood this well, and, in their conversations with me, they made no particular attempt to conceal the fact...I have by no means told the most terrible details, for a complete narration of the sadistic orgies of which these Armenian men and women were victims, can never be printed in an American publication.



These eyewitness accounts are supplemented by a wealth of documentary evidence from both Turkish and foreign sources. On May 24, 1915, France, Great Britain and Russia signed a joint declaration stating that:

Inhabitants of about one hundred villages near Van were all murdered...In view of those new crimes of Turkey against humanity and civilization, the Allied governments announced publicly...that they will hold personally responsible —

— for —

— these crimes all members of the Ottoman government and those of their agents who are implicated in such massacres.

After the war, the Allied powers included article 230 in the peace treaty with the Ottoman Empire, the proposed Treaty of Sèvres, which required the Turks to turn over those individuals responsible for carrying out massacres on their territory. The Turkish government consented to the treaty, and this provision, but it was ultimately never ratified due to the military success of the Turkish resistance led by Mustafa Kemal.

Accounts of Turkish atrocities could perhaps be dismissed as mere propaganda if they were based entirely on the testimony of its wartime enemies. They are, however, corroborated by the reports of German and Austro-Hungarian officials — allies of the Ottoman Empire — which also documented the annihilation and specifically refute Turkish suggestions that the slaughter was a response to an Armenian uprising or the unfortunate by-product of a civil war.

Visitors to the region in the years after the massacres observed the suffering of the survivors. In 1929, during his journey to Palestine, the author Franz Werfel visited Damascus and wrote that:

The pitiful scene of the starved and mutilated children of the Armenian refugees gave me the last push to redeem the cruel fate of the Armenian people from the abyss of oblivion.

Later investigations have confirmed these initial accounts. In 1985, a sub-commission of the United Nations Economic and Social Council on the Prevention of Discrimination and Protection of Minorities reiterated that reliable estimates by independent authorities and by eyewitnesses clearly indicate that "...at least 1 million, and possibly well over half of the Armenian population, were exterminated."

On November 15, 2000, the European Parliament, which includes representatives of 15 European countries, also recognized the existence of the massacres by adopting a resolution calling on Turkey to publicly recognize the Armenian genocide as a step toward its eventual European Union membership.

The existence of the genocide has already been acknowledged by Argentina and Sweden, as well as by three NATO countries: France, Italy and Belgium, which is the seat of NATO. Pope John Paul II has also acknowledged it, stating: "The Armenian genocide has been a prelude to the horrors that followed."

In addition, last year, on April 24, the Armenian day of remembrance, the Israeli Minister of Foreign Affairs and the Minister of Education both publicly recognized that the genocide actually took place.

Honourable senators, the dangers of rushing to judgment on historical questions before all the facts have been subjected to serious study have rightly been pointed out during this debate. I fully share these concerns, but I think that after nearly a century of investigation of the sources by experts, the inescapable conclusion is that the Armenians were undoubtedly the victims of genocide. This conclusion is supported by a majority of academic opinion.

In 1989, the Union of American Hebrew Congregations recognized the genocide. Professor Elie Wiesel, the 1986 Nobel Peace Prize winner, said that:

The U.S. Holocaust Memorial Museum Executive Council has unanimously agreed to include reference to the Armenian and other genocides to help illuminate or relate to the story of the Holocaust.

In 1997, the Association of Genocide Scholars, an international non-partisan organization consisting of more than 100 academics dedicated to studying and teaching people about the world's genocides, unanimously reaffirmed that:

The mass murder of Armenians in Turkey is a case of genocide which conforms to the statutes of the United Nations Convention on the Prevention and Punishment of Genocide.

In March 2000, 126 Holocaust scholars signed a petition affirming that the World War I Armenian genocide is an incontestable historical fact and accordingly urging the governments of Western democracies to likewise recognize it as such. Amongst them were writers, professors and editors, including Professor Elie Wiesel; Professor Stephen Feinstein, Director of the Centre for Holocaust and Genocide Studies, University of Minnesota; Professor Yehuda Bauer, Director of the International Institute of Holocaust Research, Jerusalem; and Professor Dorota Glowacka, King's College, Nova Scotia.

Taken together, the mass of eyewitness testimony, the documentary evidence of the First World War period and numerous subsequent studies clearly establish that the massacre of the Armenians is a case of genocide.

Honourable senators, let us deal with the second question. What are the implications of publicly recognizing the Armenian genocide?



As Canadians, when confronted with a clear violation of such fundamental human rights, we must ask ourselves these two simple questions: Does Canada put a price on the value of human life? Are the fleeting economic and political benefits gained by refusing to formally recognize the genocide worth sacrificing our fundamental principles?

I ask these questions, honourable senators, because it has now become apparent that it is commercial and political interests that are behind the U.S. President's decision to refrain from recognizing the Armenian genocide. On October 19, 2000, in a letter to Congress focused specifically on the Armenian question, then-President Clinton indicated his opposition to acknowledging the genocide, due to the far-reaching negative consequences for significant U.S. interests in the region, such as the containment of Saddam Hussein.

The new Bush administration has also maintained this policy. A February 2001 *Washington Times* article reported that:

...administration officials instead highlighted Turkey's potential usefulness in helping to build a new pipeline in the Caucasus and the country's \$6 billion yearly consumption of goods.

The U.S. concerns raise important questions about how far economic and political objectives should be allowed to supersede the fundamental ethos of a country.

Of course, there is trade between Canada and Turkey, and Turkey is also a member of NATO. Those are important economic and political considerations, but should they prevent us from following the underlying spirit of the Canadian Charter of Rights and Freedoms and the Universal Declaration of Human Rights? Should we close our eyes to the most serious of all crimes against humanity for the sake of an indeterminate amount of money or ill-defined geopolitical considerations? How large must the profit margins be in order to persuade Canada to forgo its principles?

• (1750)

Trade is significant, but, equally, if not more important, are the principles that we as Canadians value and support domestically and internationally: the sanctity of human life, the protection of minority rights and the obligation of the international community to fight any form of or attempt at genocide. These are the principles that we have fought for, espoused and committed ourselves to uphold by signing a significant number of international treaties and conventions, including, of course, the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, which Canada signed on November 28, 1949.

The preamble of the Genocide Convention states the following:

...genocide is a crime under international law, contrary to the spirit and aims of the United Nations and condemned by the civilized world.

The link between our international stance and domestic policies was explicitly outlined in the recent Supreme Court decision, of February 15, 2001, in the case of *Burns and Rafay United States v. Burns*. The court stated:

Canadian support of international initiatives opposing extradition without assurances, combined with its international advocacy of the abolition of the death penalty itself, leads to the conclusion that in the Canadian view of fundamental justice, capital punishment is unjust and should be stopped.

This decision of the Supreme Court is clearly parallel to Canada's stance against genocide and our ensuing obligations.

As the preamble of the Geneva Convention states, genocide is against the spirit and values for which Canada stands. Faced with an act of genocide, we cannot abdicate our moral responsibility if we want to remain coherent in our domestic and international stances. Most recently, Canada has been a leading champion of the creation of an international criminal court specifically mandated, according to article 5, paragraph 1, of the Rome Statute, to try those responsible for committing genocide. Our international reputation will come into question if we shy away from our responsibility and contradict the very principles and conception of human rights that we have encouraged other countries to endorse.

**The Hon. the Speaker:** Senator Joyal, I must advise you that your 15 minutes have lapsed.

**Senator Joyal:** I seek leave to terminate my remarks.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Joyal:** I will try to conclude quickly.

It would be inappropriate to suggest that the recognition of the Armenian genocide by the Turkish government would be a simple and uncomplicated matter. Dealing with such an issue will be difficult for Turkey, even though the present constitutional government of Turkey cannot directly be held responsible for the crimes committed by the Ottoman Empire.

Nonetheless, many other governments confronted with similar historical tragedies have recently been forced to accept their past: Germany, France, Switzerland, and even the Vatican have all acknowledged their roles in the Holocaust. As recently as 1995, French president Jacques Chirac, speaking on the Holocaust, confessed publicly that "those dark hours forever sully our history and are an insult to our past and our traditions...France had committed the irreparable" by delivering "those she was protecting to their executions."

Facing the same responsibility, the Vatican stated on March 12, 1998: "We have to purify our hearts through repentance of past errors and infidelities..." and "heal the wounds of past misunderstandings and injustices" done to the Jews.

Although it has taken a long time for all these countries to recognize their past, as their admissions of wrongdoing have been wrenchingly painful and often entailed consequences, it has been an essential step in confronting their history and moving forward.

Turkey is not different. An admission of genocide could eventually lead to demands for financial compensation and, possibly, territorial claims, although this has been denied by the President of the Armenian Republic, Robert Kocharian, who, in a February 1, 2001 television interview reported on Turkish daily news formally stated: "Recognition of Armenian genocide will never result in Armenia's demand for land."

Difficult as these problems may be to resolve, democratic countries can address them in a satisfactory manner. Germany has proven this and has moved forward by envisaging a future based on acceptance and reconciliation.

Furthermore, Canadian recognition of the genocide would in no way violate our obligations under the North Atlantic Treaty. As NATO members, we are committed to joint defence under article 5 and to enhancing friendly relations under article 2, but, certainly, not at the expense of our fundamental principles and other commitments that we have pledged ourselves to uphold in other international human rights treaties and in our constitutional principles.

Given all these factors, we must examine the third question: What position should the Senate adopt? Let me conclude, honourable senators, with a statement made by Yossi Beilin, the Israeli Minister of Foreign Affairs, on April 24, 2000:

I think that our attitude towards such a dreadful historic event cannot be dictated by our friendly relations with Turkey, even though that relationship is particularly important to me as one who worked so hard to develop it. I also see the contradiction between the political track and the ethical one. Something happened that cannot be defined except as genocide. One and a half million people disappeared. It wasn't negligence, it was deliberate...An ethical stand cannot be dictated by political needs — these are two separate tracks.

Honourable senators, by formally recognizing the Armenian genocide, Canada will not be breaking new ground. We will even not be the first in Canada, as both the governments of Ontario and Quebec have already done so. We will live up to the principles we have promoted throughout the world. The long-term benefits that we will derive from affirming our conviction will far outweigh any temporary circumstances that might need to be addressed.

[Translation]

I share the opinion expressed by the German academic, Dr. Tessa Hoffman, who wrote the following in the preface to a work on this issue:

Forgetting, silence, indifference can make us accomplices to the crime of genocide in our century. The concept of the moral, collective and indivisible responsibility of peoples and states toward each other is more timely than ever.

[English]

Therefore, honourable senators, I urge you to reaffirm the values and principles we Canadians stand for and support Senators Maheu and Setlakwe's resolution.

**Hon. Senators:** Hear, hear!

**Hon. Jeremiah S. Grafstein:** Honourable senators, this awesome resolution placed before the Senate by Senators Maheu and Setlakwe compels each and every senator to independently examine whether the frightful designation of genocide, ethical and legal, applies to the Armenian question of 1915 and the events following.

First history, first facts, and then policy. History tells us that Armenians have lived in the land of the Middle East from the shores of the Black Sea to those of the Caspian along the Mediterranean for millennia.

• (1800)

**The Hon. the Speaker:** I regret to interrupt Honourable Senator Grafstein, but I must bring attention to the fact that it is now six o'clock and I am obliged to leave the Chair unless honourable senators agree not to see the clock.

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I move that we not see the clock.

**The Hon. the Speaker:** Do honourable senators agree that we not see the clock?

**Hon. Senators:** Agreed.

[English]

**Senator Grafstein:** Millions have resided under various regimes since the independent Kingdom of Cilicia, the first Armenian Kingdom, which fell in 1375. Over the years the lands of Armenia were divided, re-divided, partitioned and re-partitioned into what is known as the Turkish Provinces, largely inhabited by Armenians, and Russian Armenia, now the Republic of Armenia, the largest portion of lands lying within the boundaries of modern-day Turkey. In the Caucasus, in addition to Armenia, Azerbaijan and Nagorno-Karabakh still obviously have a substantial population of Armenian descent. As you know, Nagorno-Karabakh remains a simmering problem to this very day.



Certain of the Balkan peoples emerged in the last half of the 19th century as nation states. The Armenian Question, however, within the Ottoman Empire, now the modern Turkish state, took a different and very revolting course.

Following the Russian-Turkish War of 1877-78, Article 16 was introduced under the Treaty of Berlin. Under that article, the Ottoman authorities were required to undertake local reforms in the provinces inhabited primarily by the Armenians and guarantee their security. Thus, as many historians have suggested, the Armenian Question was launched in the sea of international law in the modern era.

The evidence appears overwhelming that the Ottoman Empire would not implement its treaty obligations respecting Armenian human rights. In 1895-96, the Ottoman Empire provoked or allowed a series of massacres, which cost the lives estimated to range from a low 40,000 to a better number of around 300,000 Armenians. These massacres triggered a public outcry in the West, especially in England and France.

As a result of these massacres, Armenians contend that they resorted to self-defence for the preservation of their human rights. In their desire for independent status, Armenian discontent within the Ottoman Empire animated discontent amongst the Turks themselves for greater rights. The Ottoman authorities vacillated over the history of time toward its minorities, including the Armenians, sometimes protecting them and other times provoking violence and bloodshed.

A coup d'état was staged in the Ottoman Empire on July 10, 1908. In the result, the Ottoman Empire adopted a constitution for the first time. Armenians anticipated that under a constitution, reforms would be introduced in the Armenian provinces to respect their linguistic and religious rights. The so-called Eastern Question, in effect, primarily the eastern portion of modern Turkey, was again placed on the international agenda after the combined forces of Bulgaria, Romania, Greece and Serbia, all seeking greater "lebensraum," attacked the Ottoman state and defeated her, having reached within 25 kilometres of Constantinople, now Istanbul, in 1913. This violent interlude was called the Balkan Wars. Religion and nationalism combined with Christian nationalism to foment the historic claims of greater ethnic nation states. The operative political cry was the word "greater"; Greater Bulgaria, Greater Romania, Greater Greece and Greater Serbia, mostly at the cost of the Ottoman territories. Echoes of that nationalist agenda persist to this very day.

The European Powers met in Bucharest and London after the Balkan Wars to discuss peace terms between Turkey and the Balkan States which resulted in a peace settlement that ratified the loss of Turkish territory to Greece, Serbia and Bulgaria. The so-called Eastern Question was not resolved. The Eastern Question substantiated the Armenian claims, but the Eastern Question, respecting Christian Armenia, was never resolved.

Under constitutional Turkey led by the Young Turks, the divisions of powers from the central organs of state to those of

provinces or regions substantiated by the Armenians within Turkey was never fully or fairly introduced. They never received what they were entitled to by those treaties. The question of internal autonomy of the eastern provinces, primarily occupied by Armenians within Turkey within the proposed reforms for protection of linguistic and religious rights, continue to be outstanding.

On July 3, 1913, at the initiative of the Russians, ambassadors met in Constantinople where they agreed to divide the seven provinces, those substantially inhabited by Armenians, into two parts within Turkey. On September 3, 1913, at a London conference, the decision included two administrative units, two inspector generals appointed by the great powers and agreed to by the Sultan. The two administrative units would each have a general assembly with Christians and Muslims represented equally. They would have the power to appoint and discharge officials. The administrative and judicial personnel, and police officers would be recruited from Christians and Muslims equally, reserving for the great powers the right to control and implement reforms through their ambassadors.

On February 8, 1914, Russia and Turkey signed an agreement giving effect to the above, and two inspector generals, one Dutchman and one Norwegian, were appointed. In July 1914, the inspectors were on their way to their posts when the First World War broke out. Turkey entered the war on October 12, 1914, on the side of the Germans against the Allies of the West — Britain, France and Czarist Russia. The inspector generals never reached their destinations. The question of Armenian reforms was then suspended.

In this interlude, the Turkish Government then, apparently, based on the evidence presented on the history record, commenced a policy of mass execution, torture and forced displacement of Armenians, which in turn resulted in Armenian refugees seeking to leave Turkish lands.

Many Canadians and Americans of Armenian descent trace their origins to this and earlier Armenian refugee streams. On April 24, 1915, mass arrests of prominent Armenians, the intellectual and political elites, were made in Constantinople and in the eastern provinces. Many were tortured and murdered. Many were essentially displaced to Anatolia and beyond to Syria, Lebanon, Iraq, Persia and the Caucuses, where many perished either along the way or upon arrival.

Young Armenians drafted into the army were disarmed and transferred to labour battalions. Later, they were massacred in groups, leaving the Armenian population largely defenceless and subjected to forced displacement, deportation and massacres. Many were burnt alive in their villages and towns. Many of those deported were comprised of old men, women and children. Upon reaching their desert displacement destinations, they were once more subjected to wholesale massacres in certain places, in particular a village called Musa Dagh, which attained special significance. I will return to that in a moment.



The Turks were joined by the Kurds and others in the slaughter, rape and pillage of these Armenian refugee streams. Having heard of the fate of their fellow Armenians and co-religionists, many could only offer feeble self-defence. A portion of the Armenian population died a tragic death in defence of their fellow Armenians.

I will take a brief aside, honourable senators, to say that in 1929, as Senator Joyal pointed out, Franz Werfel, a famous Czech writer, wrote a shocking book that he called *The Forty Days of Musa Dagh*. It was published in German in 1933. Shortly thereafter, the Nazis burned that book, along with others — a tragic but ironic fate.

Within the Ottoman frontiers, the policy of extermination and deportation continued, with the exceptions of Constantinople and Izmir. Massacres subsequently took place in Izmir, when the Turks defeated the Greeks and re-occupied that city in 1922. As a result of these massacres and deportations in Turkey, from 1915 and subsequent years, it is estimated that about half of the Armenian population — from a very low estimate of 800,000 to at least 1.5 million — perished, while the other half escaped to the mountains and were rescued by advancing Red Russians.

Many Armenians joined the Russians and many retreated to Russian Armenia while the struggle continued against the Turks. During World War II, Armenians primarily fought on the side of the Allies, with the high expectation that the promises made during the war would emerge, as Turkey was an enemy of the Allies. According to some figures, over 200,000 Armenians volunteered in the Russian Army, 20,000 Armenians fought on the Caucasian front, and another 5,000 Armenian volunteers fought with the French and the British as a separate unit in areas now known as Lebanon, Syria, Iraq, Israel and Transjordan. The British, French and Russian military leaders all applauded the soldiering of Armenians.

• (1810)

With the 1917 Russian Revolution, the territories in the Caucasus, known as Russian Armenia, established a provisional government to be known as the Soviet Republic of Armenia. After October 1917, when the great Czarist army dissolved as a result of the Russian Revolution, the Armenians continued fighting in the eastern regions of Turkey and gradually retreated until they reached the old Russian-Turkish border.

Under the Treaty of Brest-Litovsk on March 3, 1918, Turkey was given back its eastern provinces. On June 4, 1918, the Turks signed a peace treaty with Armenia in Batumi and recognized the independent Republic of Armenia, located in the Caucasus. Under the Treaty of Sevres, in 1920, which designated the peace treaty with Turkey, this treaty recognized the rights of Armenians because of their military contribution especially against the Turks in the Caucasus.

After the withdrawal of Russian forces, thus delaying the Turkish-German occupation of Baku, the oil centre in the

Caucasus, one month after the Treaty of Sevres, on September 20, Turkey attacked the Republic of Armenia. Unaided by the Allied powers, Armenia succumbed on December 2, 1920. A third of that territory was annexed by the Turks while the eastern portion later became a Soviet Republic. You will recall that when Stalin took over, he joined Georgia, Armenia and Azerbaijan in the Caucasus under the Soviet hegemony. In 1923, under the Treaty of Lausanne, the Armenian question within Turkey was left as an unresolved matter.

Senators will forgive me if I sketched this complicated, tangled history too quickly. I hope that I have not taken history too much out of context due to the brevity of this exposition, but I have concluded, based on the overwhelming evidence, that genocide, as defined under conventional and customary international law, took place. Indeed, the Ottoman war trials did take place after these events, but I have not been able to get access to those records or those conclusions.

In 1915, within the territories now known as Turkey, the evidence appears to be overwhelming that such was the case that genocide did take place. Let me quote from a fascinating book of history entitled *Europe* by Norman Davies, an outstanding British historian, published in 1996, at page 909. The section I am quoting is entitled "Genocide."

On 27 May 1915, the Ottoman Government decreed that the Armenian population of eastern Anatolia would be forcibly deported. The Armenians, who were Christians, were suspected of sympathizing with the Russian enemy on the Caucasian Front, and of planning a united Armenia under Russian protection. Some two to three million people were affected. Though accounts differ, one-third of them are thought to have been massacred; one-third to have perished during deportation; and one-third to have survived. The episode is often taken to be the first modern instance of mass genocide. At the treaty of Sèvres...the Allied Powers recognized united Armenia as a sovereign republic. In practice, they allowed the country to be partitioned between Soviet Russia and Turkey.

Adolf Hitler was well aware of the Armenian precedent. When he briefed his generals...on the eve of the invasion of Poland, he revealed his plans for the Polish nation:

These were his words:

Genghis Khan had millions of women and men killed by his own will and with a gay heart. History sees him only as a great state-builder...I have sent my Death's Head units to the East with the order to kill without mercy men, women, and children of the Polish race or language. Only in such a way will we win the *lebensraum* that we need. Who, after all, speaks today of the annihilation of the Armenians?

The term "genocide", however, was not used before 1944, when it was coined by a Polish lawyer of Jewish origin, Rafal Lemkin...who was working in the USA. Lemkin's campaign to draw practical conclusions from the fate of Poland and of Poland's Jews was crowned in 1948 by the United Nation's "Convention for the Prevention and Punishment of Genocide." Unfortunately, as the wars in ex-Yugoslavia have shown, the Convention in itself can neither prevent nor punish genocide.

Honourable senators, I thought, to be fair to myself, that I would not only give this version of history but that I would seek to find out what the Turks were saying about these events. I turn to an excellent book published recently, entitled *Turkey Unveiled: A History of Modern Turkey*, by Nicole and Hugh Pope.

**The Hon. the Speaker pro tempore:** Senator Grafstein, I am sorry to interrupt you but your speaking time is up. Are you asking for more time?

**Senator Grafstein:** I would ask for leave to continue.

**The Hon. the Speaker pro tempore:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Grafstein:** Honourable senators, this book was published in 1996. I think it is cogent to see what Turkey says about these events. I will read to you a paragraph and a half on page 42:

...Turkish schoolbooks do not dwell on the subject. Subsequent events on the Ottoman eastern front, so important in the formation of European and American attitudes to Turkey, earn at most a few dozen lines. The grim tone of the half-told story in a leading textbook leaves it open to many interpretations:

This is a quote from a recent Turkish textbook:

The Russians used the Armenians as a cat's paw. Thinking they would achieve independence, they attacked their innocent Turkish neighbours. The Armenian "committees" massacred tens of thousands of Turkish men, women and children. This made it hard to wage war on the Russians. So the Ottoman state decided in 1915 forcibly to deport the Armenians from the battlefields to Syria. This was the right decision. During the migration some of the Armenians lost their lives due to weather conditions and insecurity...the *Turkish Nation* [original emphasis] is certainly not responsible for what happened during the Armenian migration. Thousands of Armenians arrived in Syria and there lived on under the protection of the Turkish state.

The authors conclude:

To Turkish schoolchildren, and other visitors to Turkish "museums of barbarity" in the east, the impression is given that the massacres were committed solely by Armenians on Turks. Those Turks who know that massacres of Armenians occurred are left to conclude that since the "Turkish Nation" was not at fault, the Kurdish tribes must have been to blame. The truth is not so reassuring.

I thought I would place that on the record because it is important to put this in some kind of historic context.

Beyond other claims under international law, beyond a finding of genocide, other claims, both conventional and customary, respecting the provinces of Eastern Turkey are a much more complex and difficult matter. The resolution, thankfully, does not compel me to address those questions. Suffice it to say that contesting claims, in the absence of a thorough review, are unreasonable. Such claims, considered independently, makes it almost impossible without a thorough review to render a fair opinion. The issue of self-determination within the boundaries of a recognized state invoke, as we know, great complexities and matters beyond the scope of this resolution. Once 'genocide' is concluded, I have not, in the time available, considered the legal consequences.

The question of responsibility, while primarily on the 1915 Turkish authorities, opens up other questions.

While complicity in these crimes adheres to the authorities and the participants at the time, it is difficult to extend sanctions to legal entities or individuals. The question of genocide, however, is not a retroactive question. Under international law, as declared by the Nuremberg Tribunal following the Second World War, genocide is considered contrary to natural law and therefore is not retroactive. What can one do under the present circumstances?

Honourable senators, before addressing the consequences, may we revisit the Armenian question from yet another perspective. Let me add some historical points of reference that might capture more closely our Canadian attention.

In 1896, shortly after Winston Churchill was commissioned as an army officer in England, he attended the Alhambra Theatre in London with a fellow officer for an evening of theatre and enjoyment. An entertainer, inspired by Salisbury, then Prime Minister of England, and the new Russian Czar's clamour of concerns about the Armenian massacres of 1896, sang these words in his vaudevillian style:

Cease your preaching, load your guns.  
Their roar our music tells.  
The day has come for Britain's sons,  
To seize the Dardanelles.



Winston Churchill leaned toward his friend and asked, "Where are the Dardanelles, exactly?" That word, "Dardanelles," had historic consequences for Churchill and the British Empire, including Canada and Australia, and is closely related to the Armenian question that we are debating today.

• (1820)

Let me return to 1914. The British Empire troops from Canada and Australia, together with France and England, had suffered over one million casualties on the bloody trench fields of France. We see the pictures above us. Political leadership in Canada, the Empire and Britain were frozen, trapped by geography and mass mobilization. What was required was a strategic imagination, a strategic vision, to break the endless slaughter in France. Hence, the idea of attacking Gallipoli on the Turkish Straits of the Dardanelles, attacking the soft back of the tottering Ottoman Empire, then a neutral power but leaning toward the German adversaries. This was a very important strategic vision for a union of a Christian and Balkan league of states, together with the British Empire, all seeking greater living room to match the religious ideas of greater Serbia, greater Bulgaria, greater Romania and greater Greece. On the east, Czarist Russia planned to occupy the eastern lands of the Ottoman Empire. The narrow tactic was to free the waterways from the Black Sea to the Aegean Sea through the Dardanelles by the occupation of Gallipoli.

The Greek prime minister of the day had first offered 60,000 troops to recapture the European side of the Ottoman Empire. The connection of the Black Sea to the Sea of Marmora and then the Dardanelles to the Aegean Sea would open the sea lanes for both Imperial Britain and imperial Czarist Russia, and they could attack and occupy what was considered to be the strategic lynch pin, Constantinople. Turkey was weak and unpredictable.

I recount this history briefly because this will establish the atmosphere surrounding the massacre and deportation of Armenians, which they commemorate, on April 24, 1915, a day before the imperial English attack on Gallipoli on April 25, 1915.

In September 1914, Britain had stopped Turkish torpedo boats and discovered Germans aboard. The Germans had moved to mine the Dardanelles, darken the lighthouses and cripple water transit. This was a flagrant violation of international convention, guaranteeing free passage of those straits. German cruisers, flying under Turkish colours, attacked the Czar's Black Sea ports.

Turkey finally became a belligerent on the side of Germany. The word "Chanak," located on this perilous passageway, became a rallying cry in Canada and the West and a strategic point of British attack.

In the circumstances, the Imperial War Cabinet, including the Prime Minister of Canada, Henry Borden, the Prime Minister of South Africa, General Smuts, and the Prime Minister of Australia

supported the British war cabinet in its strategic attack on Gallipoli.

The Greek King, Constantine, married to a German princess, worried about Bulgarian intentions and German reactions, vetoed the Greek prime minister's offer of troops, so Britain was left without troops.

On February 19, the British naval attack force attacked the outward Turkish force guarding the lips of the Dardanelles. The Turkish defenders fled. The British marines landed and the start of the strategic onslaught against Gallipoli was underway. The Greeks had second thoughts. Seeing that the first attacks were successful, they now agreed to send troops. Turkey, encircled, looked doomed. The Greek government fell. The Russians were encountering difficulties at home, which ultimately led to the Russian Revolution two years later.

On March 18, 1915, the British naval attack resumed on the Dardanelles. On April 25, the day after April 24, commemorating the Armenian catastrophe, the Allies landed at Gallipoli. Before the year was out, the Allies suffered well over 250,000 casualties.

Churchill, now politically burned because of his support for the Gallipoli venture, ruminated to his friend Sir George Riddell on April 29, 1915. These words were found in Riddell's memoirs. Churchill said, as he looked at a map of the region, the following:

This is one of the great Campaigns of History. Think what Constantinople is to the East. It is more than London, Paris and Berlin rolled into one. Think what its fall will mean. Think how it will affect Bulgaria, Greece, Romania and Italy, who have already been affected by what has taken place.

The dreams of a greater coalition of Christian nations still occupied Churchill's strategic imagination.

To the surprise of all, the Turks defended and held. While they did so, the massacred intensified. The Western attacks were repulsed. One historian put it this way:

The Armenians were available. They were Christian. They were clever. They were wealthy. They were suspected of sympathizing with the Russians and smuggling arms and plotting revolts and so the planned massacres began. Leaders were captured and tortured. The young were sent to labour, the old, the weak and the children forced to march toward Syria, Persia and Mesopotamia, where they were robbed, left naked, raped and left to die of hunger and exposure. And so a million or more died.

Churchill was demoted in the Cabinet on May 22, 1915. Ironically, in the British press, Churchill was called "England's Armenian."



I add this template of history to indicate how directly and indirectly other nations, including Canada, were involved in the events surrounding the Armenian massacres, which are the subject matter of our resolution.

Let me return to the word "genocide," first coined by Raphael Lemkin, in 1944, who was then working in the United States. Lemkin defined "genocide" in two ways: as the planned annihilation of a people and as a progressive process — a coordinated plan of different actions aimed at the destruction of the essential foundations of life of national groups with the aim of annihilating the groups themselves. Under this generic definition, clearly the actions of the Turkish authorities, up to and following April 24, 1915, respecting its Armenian populations, would lead to an inescapable conclusion of genocide as defined by Lemkin.

Honourable senators, once we make this finding, in which I concur, what are we to do? Beyond the acceptance of the claim to genocide, other claims under international law, both conventional and customary, as it applies to the province of Eastern Turkey, are more complex and difficult. Thankfully, the resolution does not compel the Senate to address these questions.

Let me repeat. Suffice it to say that any other claims, hotly contested, absent a thorough review, makes it almost impossible to render a balanced opinion on these other questions. The issue of self-determination, often a tortured notion ripped from its international context, can cause great harm. Within a recognized state, it evokes great complexities, great factual issues and great philosophic and legal issues that are simply beyond the scope of this resolution.

The question of responsibility opens up other questions. Honourable senators should note the following statement made by a senior Turkish official on May 13, 1915:

For the last month the Kurds and the Turkish populations merely have been engaged in massacring the Armenians with the connivance and often help with the Ottoman authorities.

This is grudging Turkish acknowledge of genocide. What therefore should be the sanctions? What was the role of the Ottoman war crimes tribunal? What should be done now? What are the consequence of a finding of genocide eight decades after the events? I can offer no ready solution to those questions.

I will draw the attention of honourable senators to two magnificent books that might help us address these questions, since Turkish governments past and present have barely acknowledged or appropriately dealt with these historic questions. In effect, what are the consequences of denial of

historic truths on future conduct? What is the consequence of the Turkish denial of these historic truths.

First, I commend to honourable senators a book that was granted an award in this hall some months ago. That book, by a Canadian, Erna Paris, a long-time friend of mine, is entitled *Long Shadow: Truth, Lies And History*. The second book I commend to honourable senators is by Ervin Staub; it is entitled *The Roots Of Evil: The Origins of Genocide and Other Group Violence*.

• (1830)

My conclusion, honourable senators, is that nationalism married to religion always seems to activate the rawest nerves, instigates hate, defining, dividing and distorting the human condition. Memory and history require that first the truth be told so that the human condition can be exposed to this flaw of hatred, the roots of genocide, the human condition so often and so easily injected by greater calls of nationalism and religion.

The roots of evil lie not in the heart of darkness but more often in lip service and prayers invoked and taught to our children, when one person or one group is ascribed a higher place in the natural order of the human condition, where equality is displaced by theories of superiority. When one does not treat the stranger as oneself, we open the arteries to the heart of genocide. Thus, genocide lurks in the shadows and haunts us still. Will we ever learn from history?

This resolution is in itself a modest lesson in history. For that, we must commend our colleagues Senators Maheu and Setlakwe for bringing it once again to our attention.

[Translation]

**Hon. Marcel Prud'homme:** Honourable senators, I rise on a point of order. Unless I am mistaken, it is Senator Bacon who asked for the adjournment of the debate. Since the senator is absent, she must have given up her place to the two honourable senators.

I think that the debate should be adjourned again, under the name of Senator Bacon. Could the Chair explain what could be done without depriving Senator Finnerty of this right?

**The Hon. the Speaker pro tempore:** The honourable Senator Prud'homme is right. The motion to adjourn is still under the name of Senator Bacon.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, after consulting with Senators Maheu and Bacon, it was agreed that adjournment would be under the name of Senator Finnerty.

On the motion of Senator Finnerty, debate adjourned.

[English]

## BLACK HISTORY MONTH

PRESENTATION TO CANADIAN BAR  
ASSOCIATION—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Cools calling the attention of the Senate to the celebration of Black History Month in Canada, and the Canadian Bar Association of Ontario dinner in Toronto on February 1, 2001, at which she, as the keynote speaker, spoke to the topic "A Room With a View: A Black Senator's View of the Canadian Senate."—(*Honourable Senator Carstairs*).

**Hon. Anne C. Cools:** Honourable senators, I should like to take the adjournment on this item.

**The Hon. the Speaker *pro tempore*:** Honourable senators, the adjournment on this inquiry stands in the name of Senator Carstairs.

**Senator Cools:** Today is the fifteenth day, after which the item will drop from the Order Paper.

**Hon. Marcel Prud'homme:** Honourable senators, I will speak today so that it does not die.

**Senator Cools:** Does the Honourable Senator Prud'homme wish to take the adjournment?

[Translation]

**Senator Prud'homme:** Honourable senators, we all know the passion and the energy of Senator Cools, who was the keynote speaker at a great dinner held on February 1, 2001, by the Ontario chapter of the Canadian Bar Association. She delivered a very important speech.

[English]

Her speech was entitled "A Room With a View: A Black Senator's View of the Canadian Senate." I would hate to see this inquiry disappear. It will give a chance to many members during the summer to reflect on all these matters that could disappear. I hope that someone will do me the same favour tomorrow when the number 15 will appear next to the inquiry of the Honourable Senator Andreychuk. It stands adjourned under my name, but I do not intend to speak to it tomorrow. I will speak to something else tomorrow.

Having said that, no honourable senator could better speak on the subject of the history of Blacks in Canada. You do not need to be Black, honourable senators. We could talk about the French Canadian history or the rights of the English-speaking minority in Quebec, something which I defend. You do not need to be

English to defend the rights of the English; you do not need to be French to defend the rights of the French. I would say that Senator Oliver may tell us more, but other senators may do the same. I see some chief editorialists of newspapers who are now in the Senate. We will have four very prominent new senators in a short time. Some of them have touched almost every subject.

I believe my short intervention will give the chance to honourable senators to reflect this summer on this inquiry of Senator Cools. I thank her for having brought this inquiry forward. I will not be able to speak to it in the future. However, if an amendment is made to it, I will speak to it. I was glad to get up and offer my little bit of cooperation.

On motion of Senator Prud'homme, debate adjourned.

## NATIONAL FINANCE

COMMITTEE AUTHORIZED TO STUDY ROLE OF GOVERNMENT IN  
FINANCING DEFERRED MAINTENANCE COSTS  
IN POST-SECONDARY INSTITUTIONS

**Hon. Wilfred P. Moore,** pursuant to notice of May 29, 2001, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report on the role of government in the financing of deferred maintenance costs in Canada's post-secondary institutions; and

That the Committee report no later than the 31st day of October, 2001.

Motion agreed to.

## AGRICULTURE AND FORESTRY

STUDY ON PRESENT STATE AND FUTURE OF FORESTRY—  
COMMITTEE AUTHORIZED TO TABLE FINAL REPORT WITH CLERK

**Hon. Jack Wiebe,** for Senator Gustafson, pursuant to notice of June 12, 2001, moved:

That the Standing Senate Committee on Agriculture and Forestry, which was authorized by the Senate on March 20, 2001, to receive, examine and report on the papers, evidence, and work accomplished by the Committee during the Second Session of the Thirty-sixth Parliament in relation to the present and future state of forestry, and to report by June 30, 2001, be permitted, notwithstanding usual practices, to deposit its report with the Clerk of the Senate, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

Motion agreed to.

The Senate adjourned until Thursday, June 14, 2001, at 1:30 p.m.



# CONTENTS

Wednesday, June 13, 2001

	PAGE		PAGE
<b>Visitor in the Gallery</b>		<b>Information Commissioner</b>	
The Hon. the Speaker .....	1124	Notice of Motion to Receive in Committee of the Whole.	
		Senator Kinsella .....	1134
<b>The Honourable Mabel M. Deware</b>			
Tributes on Retirement. Senator Lynch-Staunton .....	1124	<b>QUESTION PERIOD</b>	
Senator Carstairs .....	1124		
Senator Kinsella .....	1125	<b>Finance</b>	
Senator Graham .....	1125	Imposition of Tax on Cartons of Cigarettes—	
Senator Cohen .....	1126	Effect on Duty-Free Shops. Senator Oliver .....	1134
Senator Losier-Cool .....	1126	Senator Carstairs .....	1135
Senator Murray .....	1126	Senator Tkachuk .....	1135
Senator Bryden .....	1127	Senator Forrestall .....	1135
Senator Beaudoin .....	1127		
Senator Kroft .....	1127	<b>National Defence</b>	
Senator Spivak .....	1128	Replacement of Sea King Helicopters—Tendency of Eurocopter	
Senator Stollery .....	1128	Cougar for Static Rollover—Fitness for Naval Operations.	
Senator Robertson .....	1128	Senator Forrestall .....	1135
Senator Atkins .....	1128	Senator Carstairs .....	1135
Senator Rompkey .....	1129		
Senator St. Germain .....	1129	<b>Treasury Board and Justice</b>	
Senator Prud'homme .....	1129	Membership of Access to Information Review Task Force.	
Senator Forrestall .....	1130	Senator Stratton .....	1136
Senator DeWare .....	1130	Senator Carstairs .....	1136
		<b>North Atlantic Treaty Organization</b>	
<b>SENATORS' STATEMENTS</b>		Meeting of Heads of State—Request	
<b>La Voix Acadienne</b>		for Comments by Prime Minister. Senator Nolin .....	1136
Senator Corbin .....	1132	Senator Carstairs .....	1136
<b>British Columbia</b>		Meeting of Heads of State—Statement of Secretary General	
Announcements by Secretary of State for Western Economic		on Conflict in Macedonia. Senator Nolin .....	1136
Diversification. Senator Lawson .....	1132	Senator Carstairs .....	1137
<b>The Late Charles Bradley Templeton</b>		<b>Fisheries and Oceans</b>	
Tribute. Senator Grafstein .....	1133	Meeting of State Ministers in Stockholm, Sweden—	
		Comments by Minister on Structured Management	
<b>ROUTINE PROCEEDINGS</b>		of Fish Stocks in International Waters.	
<b>Farm Credit Corporation Act (Bill C-25)</b>		Senator Comeau .....	1137
Bill To Amend—Report of Committee. Senator Gustafson .....	1133	Senator Carstairs .....	1137
<b>Adjournment</b>		<b>Foreign Affairs</b>	
Senator Robichaud .....	1133	United States—Missile Defence System—Future of	
<b>Appropriation Bill No. 2, 2001-02 (Bill C-29)</b>		Anti-Ballistic Missile Treaty—Comments by Ambassador	
First Reading. ....	1133	to Canada. Senator Roche .....	1137
<b>The Senate</b>		Senator Carstairs .....	1138
Resolutions of Standing Committees of Energy, the Environment		United States—Missile Defence System—Cost to Canada.	
and Natural Resources and National Finance on Bill C-4—		Senator Roche .....	1138
Notice of Motion to Forward to Commons.		Senator Carstairs .....	1138
Senator DeWare .....	1134	<b>Delayed Answers to Oral Questions</b>	
		Senator Robichaud .....	1138
		<b>Agriculture and Agri-Food</b>	
		Downturn in Grain Seed and Oilseed Sectors—Effect of Input Costs.	
		Question by Senator Gustafson.	
		Senator Robichaud (Delayed Answer) .....	1138
		Interest Free Government Loans to Purchase Seed,	
		Fertilizer and Spraying Material	
		Question by Senator Tunney.	



	PAGE
Senator Robichaud (Delayed Answer) .....	1139
<b>National Defence</b>	
Possible Sale of Portion of CFB Shearwater. Question by Senator Forrestall.	
Senator Robichaud (Delayed Answer) .....	1139
<b>Heritage</b>	
Canadian Radio-television and Telecommunications Commission—Decision on Francophone Broadcast Programming in British Columbia Question by Senator Gauthier	
Senator Robichaud (Delayed Answer) .....	1139

## ORDERS OF THE DAY

<b>Business of the Senate</b>	
Senator Robichaud .....	1140
<b>Parliament of Canada Act (Bill C-28)</b>	
<b>Members of Parliament Retiring Allowances Act</b>	
<b>Salaries Act</b>	
Bill to Amend—Third Reading. Senator Cools .....	1140
Senator Banks .....	1141
<b>Canada Elections Act</b>	
<b>Electoral Boundaries Readjustment Act (Bill C-9)</b>	
Bill to Amend—Third Reading. Senator Oliver .....	1141
<b>Canada Foundation for Sustainable Development</b>	
<b>Technology Bill (Bill C-4)</b>	
Third Reading—Debate Continued—Vote Deferred.	
Senator Carstairs .....	1142
Senator Cochrane .....	1143
Senator Lawson .....	1144
Senator Stratton .....	1145
Senator Oliver .....	1145
Senator Cools .....	1145
Senator Robichaud .....	1145
Senator Lynch-Staunton .....	1146
Motion in Amendment. Senator Lynch-Staunton .....	1149
Senator Cools .....	1149
Senator DeWare .....	1150
Senator Rompkey .....	1150
<b>Youth Criminal Justice Bill (Bill C-7)</b>	
Second Reading—Order Stands. Senator Robichaud .....	1150
Senator Kinsella .....	1150
<b>Appropriation Bill No. 2, 2001-02 (Bill C-29)</b>	
Second Reading—Debate Adjourned. Senator Finnerty .....	1150

	PAGE
<b>Bill to Remove Certain Doubts Regarding the Meaning of Marriage (Bill S-9)</b>	
Second Reading—Debate Continued. Senator Cools .....	1151
Senator Wiebe .....	1156
<b>Study of Health Care System</b>	
Budget and Request for Authority to Travel— Report of Social Affairs, Science and Technology Committee Adopted. Senator LeBreton .....	1156
<b>Official Languages</b>	
Budget and Request for Authority to Engage Services— Report "A" of Joint Committee Adopted. Senator Maheu ....	1156
<b>Study on Emerging Developments in Russia and Ukraine</b>	
Budget—Report of Foreign Affairs Committee Adopted. Senator Stollery .....	1156
<b>Energy, the Environment and Natural Resources</b>	
Budget and Request for Authority to Travel— Report of Committee Adopted. Senator Taylor .....	1156
<b>Study on State of Federal Government Policy on Preservation and Promotion of Canadian Distinctiveness</b>	
Budget and Request for Authority to Engage Services— Report of Social Affairs, Science and Technology Committee Adopted. Senator LeBreton .....	1156
<b>Deferred Maintenance Costs in Canadian Post-Secondary Institutions</b>	
Inquiry. Senator Atkins .....	1157
Senator Moore .....	1160
<b>Recognition and Commemoration of Armenian Genocide</b>	
Motion—Debate Continued. Senator Joyal .....	1160
Senator Grafstein .....	1163
Senator Robichaud .....	1163
Senator Prud'homme .....	1168
<b>Black History Month</b>	
Presentation to Canadian Bar Association—Inquiry— Debate Continued. Senator Cools .....	1169
Senator Prud'homme .....	1169
<b>National Finance</b>	
Committee Authorized to Study Role of Government in Financing Deferred Maintenance Costs in Post-Secondary Institutions. Senator Moore .....	1169
<b>Agriculture and Forestry</b>	
Study on Present State and Future of Forestry—Committee Authorized to Table Final Report with Clerk. Senator Wiebe .....	1169



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CANADA

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OFFICIAL REPORT  
(HANSARD)

Thursday, June 14, 2001

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THE HONOURABLE DAN HAYS  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Thursday, June 14, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

**THE HONOURABLE MABEL M. DEWARE**  
**THE HONOURABLE ERMINIE J. COHEN**

#### TRIBUTE ON RETIREMENT

**Hon. Joyce Fairbairn:** Honourable senators, with great regret I was unable to be here for the wonderful send-off tributes for our colleagues Senators DeWare and Cohen. I should like to add a few words of my own today.

I am tremendously sad that both of them are leaving us. I honestly cannot think of two finer senators on either side of this chamber. Their departure will be a loss of excellence, wisdom, humour and tremendous heart for the Senate of Canada and their beloved province of New Brunswick.

Senator DeWare and I met during the storm clouds of the GST. What a beginning that was for her, but with all the turmoil and angst, one side against the other, it did not prevent us from becoming connected on a personal level. That was when the humour came into play.

Senator DeWare has made a tremendous contribution to the work of this house. I have been so grateful for Mabel's support of literacy in this country. Her outstanding background in the field of education was invaluable. She has also broken new ground as the first woman whip in the Senate. I am well aware that that is one of the roughest and toughest tasks in our system, and Mabel, with a grin on her face, has certainly kept her troops marching.

When I checked the biography of Senator Cohen, I was struck that her middle name is "Joy," and that is exactly what she has brought to the Senate and to our friendship. Senator Cohen has given passionate voice to all of those who care about poverty, children, domestic violence, human rights and literacy. Her report, "Sounding the Alarm: Poverty in Canada," is a legacy to the Senate and the country. We think alike on these issues which are not always in the headlines but go to the heart of the well-being of our nation.

Both of these honourable senators have served the women of Canada well. Their work and example has taught us all, and I am grateful that the spirit of this institution enables us to cross party

lines and build the kinds of alliances we have enjoyed as friends. They leave with my constant admiration and best wishes for happy and active years ahead with their families and always in continued service to their country.

### THE SENATE

#### ADMINISTRATIVE STAFF—EXPRESSION OF APPRECIATION

**Hon. Mabel M. DeWare:** Honourable senators, when we come into this chamber among the things we notice first are the Table officers and the pages. They have a prominent presence and important role to play, but with the passage of time they almost acquire a cloak of invisibility. I suspect that is not accidental.

The fact that they are able to move around the chamber virtually unnoticed is a sign that they are doing their jobs very well indeed. There may be a tendency to take for granted the smooth and efficient operation that surrounds us. Nevertheless, I should like to draw the attention of honourable senators to their presence today as a reminder that their unheralded contribution is a significant one.

As our work draws to a close for the summer, I should like to take this opportunity, on behalf of all of us here, to offer our sincere thanks to the Table officers and pages who are literally and physically among us. I should also like to express our thanks to the Hansard reporters, interpreters, researchers and security officers and all the others who are so helpful to us throughout the year.

They certainly help to make our lives more enjoyable in this place. Though it may not be said often enough, we really appreciate their efforts and I hope they all have a wonderful summer.

#### NUNAVUT—UNVEILING OF COAT OF ARMS

**Hon. Willie Adams:** Honourable senators, today is a great day for the Territory of Nunavut and the Senate of Canada, as we unveiled the new coat of arms for Nunavut which will appear on the doors outside our chamber.

The colours blue and green symbolize the sea and sky. The *inukshuk* symbolizes the stone monuments that guide the people on the land and mark sacred and other special places. The *qulliq*, or Inuit stone lamp, represents the light and warmth of family and community. The star is symbolic of the North Star, and the Inuit use this star as a traditional guide for navigation.



I wish to thank all honourable senators and guests for taking the time to attend, in particular the Speaker of the Senate who provided us with such a warm reception following the ceremony this morning. If honourable senators have any other questions, I should be happy to expand further.

I also wish to especially thank Mr. Kevin O'Brien, the Speaker of the Legislative Assembly of Nunavut, for attending the ceremony this morning. Speaker O'Brien comes originally from Nova Scotia and has been living up north for the past few years. He is a great man. Perhaps someday he will retire in Nunavut.

• (1340)

## NOVA SCOTIA

### YOUTH SPEAKS UP PROGRAM

**Hon. Jane Cordy:** Honourable senators, on June 10, I had the most wonderful opportunity of speaking to "Youth Speaks Up" in Sydney, Nova Scotia. This is an organization of grade six students in the Cape Breton area. It is designed to help children prepare for the changes which will happen in junior high school. The students have a motto of saying "No" to drugs, alcohol, smoking, violence, peer pressure and racism. These students have chosen to be role models for their peers and leaders in their school communities.

This program "Youth Speaks Up" promotes positive lifestyle choices for young Nova Scotians. The students learn to develop public speaking skills and self-confidence. These students are given the advantage of sharing their experiences and of listening to guest speakers on such topics as communication, peer mediation, drugs and alcohol, smoking and leadership. One cannot talk about "Youth Speaks Up" without talking about their founder, Mr. Jack Yazer. Jack is an extraordinary citizen who has dedicated his life to community service. As a 14-year-old boy, Jack Yazer immigrated to Canada from Poland knowing only a few English phrases. He worked hard and along with his brother opened a clothing store in Cape Breton in 1934. In 1940, Jack left his business and joined the Canadian Armed Forces where he served Canada until the end of 1944.

After returning to Canada, Jack re-entered the clothing business and managed his own store in Sydney until he sold it in 1976. Jack has been a strong advocate for Nova Scotia's youth and was the pioneer of the "Yazer graduated licence two-point merit plan," which gives new drivers an incentive to earn a safe driving record.

Along with many other distinctions, Jack is a Member of the Order of Canada, a leader and an inspiration to young people from all over Nova Scotia.

## VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, before going to the next item on our Order Paper, it is no surprise to you that I

draw to your attention the presence in our gallery of the Speaker of the Nunavut Legislature, the Honourable Kevin O'Brien.

Welcome to the Senate, Mr. Speaker.

**Hon. Senators:** Hear, hear!

[Translation]

## ROUTINE PROCEEDINGS

### IMMIGRATION AND REFUGEE PROTECTION BILL

#### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

[English]

### CRIMINAL CODE

#### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-24, to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

### CANADIAN SECURITY INTELLIGENCE SERVICE

#### NOTICE OF INQUIRY

**Hon. Marcel Prud'homme:** Honourable senators, I give notice that on Wednesday next, June 20, 2001, I will call the attention of the Senate to the latest public report for the year 2000 from the Canadian Security Intelligence Service.

## NOMINATION OF HONORARY CITIZENS

### NOTICE OF INQUIRY

**Hon. Marcel Prud'homme:** Honourable senators, I give notice that, on Wednesday next, June 20, 2001, I will call the attention of the Senate to the way in which, in the future, honorary Canadian citizens should be named and national days of remembrance proclaimed for individuals or events.

[English]

## CANADA-TAIWAN PARLIAMENTARY FRIENDSHIP GROUP

### NOTICE OF INQUIRY

**Hon. Lorna Milne:** Honourable senators, I give notice that two days hence I will call the attention of the Senate to the recent trip by the Canada-Taiwan Parliamentary Friendship Group to Taiwan from May 18 to 25 and to the issues which were raised and discussed by the delegation with representatives of the government of Taiwan.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this house the responses to five questions, namely the questions raised on May 16 and 17, 2001, by Senator Forrestall concerning the Maritime helicopter project; the question raised by Senator Kinsella on May 17, 2001, concerning the Maritime helicopter project; the question raised by Senator Carney on May 29, 2001, concerning the Maritime helicopter project, and the question raised by Senator Stratton on April 24, 2001, concerning the Winnipeg floodway.

## NATIONAL DEFENCE

### REPLACEMENT OF SEA KING HELICOPTERS—AVAILABILITY OF INTERFACE CONTROL SPECIFICATIONS—POSSIBLE WITHDRAWAL OF EUROCOPTER FROM COMPETITION

*(Response to questions raised by Hon. J. Michael Forrestall on May 16, 2001)*

The draft Basic Vehicle Requirement Specification and the Maritime Helicopter Requirement Specification which includes the integrated mission systems were posted on the Maritime Helicopter Project web site May 18, 2001, for industry review and comment.

In order to complete the Interface Requirement Specification, information is required from the potential prime contractors. This information will be sought in the coming months and the Interface Requirement Specification will be ready prior to the pre-qualification process.

To date, no potential prime contractor listed on the Maritime Helicopter Project web site for the supply of the Basic Vehicle has communicated an intention to withdraw from the competition.

The Maritime Helicopter Statement of Operational Requirement (SOR) approved by the Department of National Defence in July 1999 remains unchanged.

### REPLACEMENT OF SEA KING HELICOPTERS—POSSIBLE CHANGE TO BASIC VEHICLE REQUIREMENTS—EFFECT ON INVOLVEMENT OF EUROCOPTER

*(Response to question raised by Hon. J. Michael Forrestall on May 17, 2001)*

No change has been made to the Statement of Operational Requirements since it was released in August 2000.

All bids received will be evaluated in accordance with the terms and conditions set out in the Request for Proposal and Letter of Interest posted on the Maritime Helicopter Project web site.

### REPLACEMENT OF SEA KING HELICOPTERS—LOCATION OF EUROCOPTER BUSINESS OPERATIONS

*(Response to questions raised by Hon. Noël A. Kinsella on May 17, 2001)*

The Eurocopter helicopter assembly plant is located in the Erie-Lincoln electoral district (south of St. Catharines). Mr. John Maloney is the Member of Parliament for the Erie-Lincoln district. Minister Gray is the Member of Parliament for the Windsor-West district.

All bids received will be evaluated in accordance with the terms and conditions set out in the Request for Proposal and Letter of Interest posted on the Maritime Helicopter Project web site.

### REPLACEMENT OF SEA KING HELICOPTERS—POSSIBLE CHANGE TO BASIC VEHICLE REQUIREMENTS—EFFECT ON INVOLVEMENT OF EUROCOPTER

*(Response to question raised by Hon. Pat Carney on May 29, 2001)*

No changes have been made to the Statement of Operational Requirements since it was released in August 2000. The range and territory requirements remain unchanged.

Search and Rescue is a secondary requirement of the Maritime Helicopter and the range and territory requirements were determined accordingly. The operational requirements for the Maritime Helicopter are based on supporting a task group at sea on either coast. Accordingly, there are no east coast or west coast specific performance criteria.



## THE ENVIRONMENT

### WINNIPEG FLOODWAY—FEDERAL GOVERNMENT INVOLVEMENT IN FURTHER DEVELOPMENT

*(Response to question raised by Hon. Terry Stratton on April 24, 2001)*

The federal government, through the Manitoba Infrastructure Program, has cost-shared construction of an additional passage way to the floodway. This was completed in time for the flood peak this year which reduced upstream flood levels.

To deal with the matter on a long-term basis, the International Joint Commission (IJC) has presented two plausible options for the protection of Winnipeg and upstream communities:

an expanded floodway; or

a detention dam at Ste. Agathe.

The socio-economic analyses of these options is expected to be completed in July 2001. Following public review of these options, a decision will be reached as to which option is more feasible, at which time, federal-provincial-municipal partnerships will be sought in order to fund the flood protection works.

Attached is the Minister of the Environment's response to Dr. Robert Stewart's letter dated April 9, 2001. The letter outlines the Minister's current position with respect to the Rules of Operation for the existing floodway.

*(For text of letters, see Appendix, p. 1195.)*

[English]

## ORDERS OF THE DAY

### FARM CREDIT CORPORATION ACT

#### BILL TO AMEND—THIRD READING

**Hon. Jim Tunney** moved the third reading of Bill C-25, to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts.

Motion agreed to and bill read third time and passed.

• (1350)

### APPROPRIATION BILL NO. 2, 2001-02

#### SECOND READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Finnerty, seconded by the Honourable Senator Sibbeston, for the second reading of Bill C-29, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002.

**Hon. Lowell Murray:** Honourable senators, I regret that I was not in my seat yesterday when our friend Senator Finnerty opened debate at second reading. I have taken the time to read her remarks, and I thank her for her thorough exposé and overview of the material covered in this supply bill and, in particular, of the Main Estimates.

She will know, being Deputy Chairman of the Standing Senate Committee on National Finance and a faithful and active participant in its work, that the committee has had the Main Estimates for the fiscal year which began on April 1 before us for some time. We have studied various items arising from those Estimates. We have reported thereon, most recently earlier this week.

As honourable senators know, we will keep those Estimates before us until the very last moment of March in the year 2002. We will have opportunity to discuss other matters as they arise.

My friend said in opening debate on the bill that the Main Estimates reflect the expenditure plan set in the Minister of Finance's October 2000 economic statement and budget update. To that I say yes and no. As the honourable senator will recall, that very point was a contentious one before the Standing Senate Committee on National Finance when we had the officials of Treasury Board before us. The Estimates were tabled several months ago based on the minister's statement of last October.

However, in May, the minister made a further statement, an economic update to Parliament, which in our view overtook the October statement and, in some respects, the Estimates. For example, in the May update, Parliament was told that we could pretty confidently reduce the debt servicing item by about \$800 million. That was good news or so we thought. It obviously related to decreasing interest rates. However, when the officials were before us and we asked them whether we should not therefore subtract \$800 million from the amount set out in the Estimates, which is something like \$41 billion, they said, "No, no, you must accept the October figure, not the May figure. You must not accept the figure put out in the minister's May statement."



This raises the question as to the relevance of the May statement in some respects. Is it to be considered only some kind of rhetorical exercise without any particular significance? It would so appear. It is a very peculiar situation we are in, partly due to the fact that the minister and the government chose not to present a full budget in February, as recent tradition would have it.

We covered a number of other matters in the interim report of the National Finance Committee and I will return to those matters and to the Senate process before I sit down.

Honourable senators, a supply debate traditionally is an opportunity for parliamentarians to ventilate various grievances on any and every subject. I do not know whether my comments today can properly be described as grievances, but I can tell you in advance that I have a wide variety of matters to touch on. I do so mainly for the purpose of setting out some markers, if you will, or giving notice that these are matters important enough to require our renewed attention when we return here after the summer holidays.

The first matter I raise was the subject of a brief exchange between the Leader of the Government in the Senate and me on May 29. It was also the subject of a delayed answer that was tabled in this place by the Deputy Leader of the Government on June 12. This matter concerns the constitutional convention of collective cabinet responsibility.

I raised this matter during Question Period because two ministers of the Crown — Mr. Manley and Mr. Tobin — seemed to be freelancing with unauthorized advocacy of major constitutional change; that is to say the abolition of the monarchy. When I say major constitutional change, a change of this kind was considered so fundamental in 1982 when the Constitution was patriated, that any change in those constitutional provisions would require the unanimous consent of all provinces and of the federal government.

It is one thing for the federal government as such to advocate a particular change and to try to persuade the provinces and the Canadian public of the desirability of such a change. That has not been done with respect to the monarchy. The government has not taken any position with regard to changing our status as a constitutional monarchy. Yet two ministers felt free to go out and advocate the abolition of the monarchy.

I therefore asked a question about the convention of collective cabinet responsibility. What I received earlier this week in a delayed response is really a very careful and, if I may say so, well-stated definition of what the convention entails. I will not take honourable senators through the reply because it is to be found in the *Debates of the Senate* of June 12.

The reply points out that conventions are unwritten rules, that they are essentially political rather than legal but they are binding on all those who participate in public life. I will give you one sentence:

Conventions are essentially political and the sanction for failure to respect them is also political rather than legal.

The reply goes on to quote from Sir Wilfrid Laurier on March 18, 1903, in the *House of Commons Debates*, where Prime Minister Laurier says that, first, individuals will obviously hold different opinions but that the cabinet sits for the purpose of reconciling those differences.

• (1400)

He said:

...the Council sits for the purpose of examining the situation and, having examined it, then to come to a solution, which solution then becomes a law to all those who choose to remain in the Cabinet. It would be a mere redundancy for me to affirm that the necessity for solidarity between the members of the same administration is absolute; that the moment a policy has been determined upon, then it becomes the duty of every member of that administration to support it and to support it in its entirety.

As I read that, there has been a serious breach of collective cabinet responsibility and cabinet solidarity in the case of Messrs. Manley and Tobin who advocate fundamental constitutional change, unauthorized by the government. I think we can be pretty confident that this document, before it was tabled in the Senate, will have been carefully vetted by the Privy Council and other advisers to the government who are concerned about these matters. I take the quotation from Sir Wilfrid Laurier and the statement "conventions are essentially political and the sanction for failure to respect them is also political rather than legal" as a shot across the bow of Messrs. Manley and Tobin, that they should be quiet and refrain from advocating major constitutional change unless authorized to do so by the government.

It remains only for the Prime Minister to answer the question I asked, whether, in respect of the advocacy by Messrs. Manley and Tobin, the convention of collective cabinet responsibility has been suspended for some members. I think it has not been suspended. I think that if the government makes clear that it has not been and will not be, we can move on from here.

Honourable senators, I do not want to take too much of your time on this issue, but it is a matter of crucial importance for the proper functioning of our system of government. It will become more important as we get into an eventual leadership contest for the leadership of the Liberal Party of Canada. Assuming that takes place while the Liberal Party is still in government, various ministers of the Crown will be contesting the leadership. They will be tempted, while remaining ministers of the Crown, to take different positions on important matters of public policy; therefore, to breach cabinet solidarity and collective cabinet responsibility. The easy way to resolve the problem is for any candidate for the leadership to leave the cabinet, to resign from the cabinet during the —

**Senator Graham:** There wouldn't be any cabinet!

**Senator Murray:** — campaign for the leadership.

In any case, I noticed in today's newspaper that Mr. Chrétien has already issued a certain admonition to ministers that they must attend to their own departments first and foremost and not campaign for a job which is not now open, at the expense of their other duties. I think that is a timely enough reminder. However, at the same time, he or someone should remind ministers again of what collective responsibility and solidarity entails and, with a leadership campaign in the offing, ensure that those conventions are respected by all concerned.

The second matter I wish to raise was also the subject of a delayed answer. It concerns the Canadian Broadcasting Corporation. I had asked the Leader of the Government on May 17 about reports appearing in the media to the effect that the CBC was about to enter into a "partnership" with *The Toronto Star* for some unstated, journalistic purpose. I wondered aloud what is going on with our public broadcaster. What is going on? I said that I thought this was a matter of legitimate interest and concern on the part of the government and on the part of Parliament. Senator Carstairs seemed to agree with that position. She sent forward my question, and I received a delayed answer a while later.

Let me say a word about the protocol here, honourable senators. There is no minister, as we know, who is responsible for the CBC in the same way that ministers are responsible for their departments. Traditionally, there has been a minister who reports to Parliament on behalf of the CBC, and this rubric is to protect the proper autonomy of the public broadcaster. When one of us asks a question concerning the CBC, it is forwarded to the management of the CBC. They prepare an answer, and usually the minister brings it to senators. Here it is.

I put my question about this so-called partnership, and I received an answer that, while it does not say so, clearly has been prepared by the CBC.

The CBC indicates partnership arrangements can enhance its ability to fulfil its mandate and to get the most out of its resources. Strategic alliances are now a formal part of the way the CBC operates.

The reply goes on to state that the CBC had announced in January:

...that it had reached agreement with *La Presse* to take advantage of synergies —

— that wonderful word —

— resulting from complementary activities, notably with the Internet, special events and promotion.

The CBC is said to be discussing similar arrangements with *The Toronto Star*, but no agreement has yet been announced.

The CBC has stated that any such agreement will be non-exclusive and will have no impact on the editorial independence of the CBC or any of its partners. The CBC has also indicated that it will also continue to have full control of its content.

For several years now, the CBC has cooperated with private sector media in Canada such as: *The National Post...The Globe and Mail...Maclean's...La Presse* and *The Toronto Star...*

That answer does not in any way reassure me, and I think it will not reassure many people who are concerned about the integrity of the public broadcaster.

Further, while I appreciate the protocol here in which the minister simply brings in a reply prepared by the management of this Crown corporation, I want to say this: There is the proper autonomy of the CBC. There is also the legitimate interest and responsibility of the government and of Parliament for the public broadcaster, and I do not think that the CBC should be allowed to go off on its own concluding "partnerships" with other media in the private sector. I think they are going too far with their autonomy. I think that is one autonomous step too many.

My friend Senator Banks laughs, I do not know whether in agreement, disagreement, or in scorn, ridicule or contempt.

**Senator Taylor:** Don't be so sensitive.

**Senator Murray:** It is getting to be that time of year, honourable senators. Perhaps I am getting too thin-skinned. I always appreciate people laughing at my jokes, but when I have not made one, naturally I wonder what they are laughing at.

**Senator Taylor:** It is hard to tell sometimes.

**Senator Murray:** I must say that I was encouraged. I thought the new management of the CBC, who are still relatively new, got off to a pretty good start. I was quite pleased with the way Mr. Rabinovitch took on the CRTC when they tried, as I thought, to micromanage that Crown corporation. I thought he stood up very well. However, I think that this kind of "partnership" or arrangement on the part of the public broadcaster should be a matter of legitimate concern first to the government but ultimately to Parliament.

• (1410)

Honourable senators, I am sure the management will plead that this is an economic way of doing things. Many people think that selling the shop would be an economic way of doing things. I do not. I am of the view that the CBC budget should be assured, over a period of years, in such a way as to reinforce their autonomy and their ability to plan cogently for the future. However, these "partnerships" should not be allowed to go ahead without the government and Parliament having something to say about the matter. I do not like it and we should return to this matter in the fall. That is all I wish to say on that subject.



The third matter, honourable senators, is a rather delicate question I raised several times with the Leader of the Government, which concerns abortion and the Canada Health Act. My questions were asked in this place on February 6, 7 and 8, 2001. They arose out of reports in the media that the government had warned four provinces; that is, New Brunswick, Manitoba, Quebec and Prince Edward Island, that they were violating a rule of medicare — the Canada Health Act, in effect — by not ensuring the fees charged to patients at private abortion clinics.

I asked the Leader of the Government what principles of the Canada Health Act were being violated. In particular I took the case of New Brunswick. New Brunswick, like some other provinces, funds abortions in its public hospitals. That is the way it regulates abortions in that province. They choose not to fund abortions in private clinics. On February 6, 2001, after a series of questions and answers back and forth, the leader concluded:

...I would suggest that, perhaps, up to three of the principles are being violated, namely, universality, accessibility and, in cases involving women in Prince Edward Island, portability.

The next day, February 7, 2001, when I asked some further questions, the leader said, reporting obviously on some communication she had had with the Minister of Health:

The Minister of Health does not agree entirely with me on the portability issue, but he totally agrees with me on the accessibility and universality issues.

Honourable senators, I have my doubts about that, frankly; but whether or not my doubts are well-founded is not the question. If the minister has come to the conclusion that the principles of the Canada Health Act are being violated by New Brunswick, Manitoba, Prince Edward Island, Quebec, or any other province, then he knows what must be done. There are sanctions provided for in the law. Let him try his hand. If provinces feel that what is being done is beyond his authority, or that he is wrongly interpreting the act, then they will take him to court. However, none of that has occurred, so far as I can tell. The answer that I finally received from the government said:

New Brunswick's and Manitoba's policy on abortion services is to pay, on a publicly insured basis only for those that are carried out in a hospital. The Government of Canada has concerns about this approach. The *Canada Health Act* applies to *insured* hospital and physician services. The Act requires that all medically necessary hospital and physician services be provided on uniform terms and conditions...

Federal and provincial officials are engaging in bilateral discussions to reach a resolution of this issue.

As I said, I have grave doubts that the federal government is on solid ground in saying, as Mr. Rock apparently said to Senator Carstairs, that at least two provisions of the Canada Health Act are being contravened by the Province of New Brunswick. The regulation of the health care system is within the constitutional jurisdiction of the provinces. While we have the Canada Health Act, I do not believe you can interpret that act to say that a province that funds abortions in public hospitals is also required to fund them in private clinics. I do not think you can do that.

Whether I am right or wrong is not the point. My point is that the government has been backing away from its position and this is too serious a matter. They ought to either "fess up" that their warnings were a lot of hot air in the first place, or if they think they are on solid ground let them impose the sanctions and we will see where that leads them and us.

The fourth matter I want to raise, honourable senators, is that hardly perennial, the Cape Breton Development Corporation. Before all your eyes glaze over completely, I assure you I will not regale you with a history of the Cape Breton Development Corporation. There are a few people here who know it and who have lived it. Rather, I ask you to look at this as a parliamentary issue.

Parliament set up this corporation in 1967. Exactly one year ago the Senate was faced with a bill, which was passed, permitting the assets of the corporation to be sold. Honourable senators were led to believe that there was not only a willing seller, but a willing buyer to be found somewhere. Negotiations went on. For whatever reason, those negotiations collapsed. It appears there is not a satisfactory buyer at hand. The government made the announcement that they were shutting down the coal industry and, in effect, as far as Parliament is concerned, they have walked away.

Honourable senators, I simply make the point that Parliament should concern itself with this matter, if only to have the Minister of Natural Resources come before the appropriate committee to tell us what has happened. Further, we should have him or another minister tell us what their plans are for the future, and submit these plans to Parliament so that we can pass judgment on them. At the same time, we will be providing some assurance to the people of Cape Breton that Parliament has not entirely forgotten about them.

There was a time when serious matters affecting the Cape Breton economy were the subject of fairly frequent discussion in the House of Commons and the Senate. When the Honourable Allan J. MacEachen was in the House of Commons, or the Senate, when our former colleague Bob Muir sat in either House, when Donald McInnis was an MP, when our friend Senator Graham was spokesman in opposition and government, when Mr. Dingwall and others were around, Cape Bretoners could be sure that at the very least their problems were being discussed in Parliament.



Honourable senators, I do not want to cast reflection on anyone. There are a couple of rookie Liberal MPs from Cape Breton sitting in the other place, but one hears nothing. No one is challenging the minister or demanding that the minister come forward to explain what is happening. I have raised this matter on several occasions in the past. I put it forward now. It is a grievance of mine. It is a grievance, as much from a parliamentary point of view as from any other perspective. We should do our job and bring the responsible minister or ministers before some committee of the Senate. There should be a full accounting of what has been happening in the year since we passed that bill and it received Royal Assent. Surely, we can do that much if we take ourselves seriously.

That leads me to my final point, which has to do with the supply process. I should like to draw the attention of honourable senators to the way this whole matter has evolved in the last couple of days in the other place. I will draw the attention of honourable senators to one of the standing orders of that place. Rather than read it to you, I think I can accurately explain it as follows: There is a standing order there that provides that a minister of the Crown can stand and ask for unanimous consent of the Commons in order to make a motion dealing with the business of that House. If the minister does not receive unanimous consent, the minister may then bring in the same motion without notice and, unless 25 members stand immediately to object, the motion is deemed debated and passed.

• (1420)

That is a standing order. Let me acknowledge a little something of the background of that standing order. Although I cannot put a precise date on it, it came in in the early 1990s. It is not a bad example of that old saw about hard cases making bad law. I will tell honourable senators why it was brought in.

It was shortly after the creation of the Bloc Québécois — a political party that we know is dedicated to the dismantling of Canada's confederation. There was a fear on the part of the government and its advisers that that new party might do what the Irish tried to do many generations ago in the British Parliament, that is, systematically obstruct parliamentary business from going forward. While the House of Commons, since 1867, has managed to get along and rise to surpass many challenges, this was the first time there was any significant body within Parliament that was dedicated to separation. This rule was brought in to enable the government, with the assistance of a majority, to ensure that the business of Parliament would go forward.

As it turned out, the Bloc Québécois did not try to systematically obstruct the business of Parliament. Whatever other effect they had over there, they pretty well played by the rules, as I understand it. The Tory government, of which I was a part, I cheerfully acknowledge, used that provision three times. It used it on December 12, 1991 to authorize travel by the Defence Committee — what else? Also on December 12, 1991, it was used to authorize travel of the Public Accounts Committee, and on December 10, 1992 they used it to authorize travel by the

External Affairs Committee. Senator Prud'homme will remember that as he was probably chairman of the committee at the time.

The Tories used the provision three times. Mr. Boudria has had recourse to it at least three times, and I think more than that, most recently to get the pay bill through the other place. On Tuesday of this week, under that standing order, Mr. Boudria got up and proposed the following motion:

That at 5.15 p.m. on June 13, or when the business of supply in the present supply period is concluded, whichever is later, any proceedings before the House shall be interrupted and all questions necessary to dispose of Government Order, Government Bills (Commons), Number C-11 and Government Order, Government Bills (Commons), Number C-24, and Government Order, Government Business Number 7 shall be put without further debate or amendment, provided that no division requested thereon may be deferred and provided that, if the House is not sitting at that time, a special sitting shall be convened for the purposes of this Order.

I am told that all those bills were at third reading. The following is the paragraph I wish to draw to the particular attention of honourable senators.

That, during the consideration of the business of supply this day, if a division is requested on any motion to concur in any item or items in the Main Estimates, immediately after the taking of the said division, the questions on all subsequent motions to concur in any item or items in the Main Estimates shall be deemed to have been carried on division.

Even if the opposition prevailed on the first item and managed to reduce or to delete the first item under consideration, all the others would be deemed to have been passed with no vote.

I have had previous occasion here and in other places to comment on this system. We all remember the problems that existed way back when, when every minister had to bring his or her Estimates into Committee of the Whole. The opposition and government back-benchers would concentrate on a few. They would have their day and, at 10 minutes to midnight, or even after that, on the very last day, the Estimates of all the other departments would go through in a big hurry. However, at least in the Committee of the Whole the Estimates of a number of departments got very serious examination.

Under Mr. Trudeau's government, the Honourable Donald MacDonald and others decided that this was not rational enough and that a much more rational system would consist of sending all the Estimates to standing committees and providing for a series of opposition days on which members of the opposition could bring forward sometimes votable motions having to do with various aspects of government policy.

What about the actual Estimates? If they are not back in the House of Commons from the standing committee by a certain drop-dead date, they are deemed to have been reported. Then, of course, there are votes in the House of Commons, except that Mr. Boudria had recourse to Standing Order 56(1), which provides for no votes at all on most of the Estimates.

This year, I am told, the following departments actually had their Estimates opened. I cannot say whether much time or effort was taken, but at committee the Estimates of the Auditor General — no surprise there, they wanted to show him who is boss — the Estimates of the House of Commons — no surprise there — the Estimates of the Chief Electoral Officer — no surprise there — and the Estimates of Official Languages, HRDC, Health, Fisheries and Oceans, CIDA and Indian and Northern Affairs were examined. In most of these cases, if not all, I am told that one 90-minute meeting was devoted to looking at those Estimates.

The Estimates of all other departments of government were “deemed” to have been reported.

**The Hon. the Speaker:** Honourable senators, it being 2:30 p.m., pursuant to the order adopted by the Senate on Wednesday, June 13, 2001, it is my duty to interrupt the proceedings for the purpose of putting the deferred vote on the motion in amendment of the Honourable Senator Lynch-Staunton.

Pursuant to agreement, the bell to call in the senators will be sounded for 30 minutes.

Call in the senators.

### CANADA FOUNDATION FOR SUSTAINABLE DEVELOPMENT TECHNOLOGY BILL

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Milne, for the third reading of Bill C-4, to establish a foundation to fund sustainable development technology,

And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Cochrane, that the Bill be not now read a third time but that it be referred back to the House of Commons for further study.

• (1500)

[ Senator Murray ]

Motion in amendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk	Kelleher
Atkins	Keon
Bolduc	Kinsella
Buchanan	LeBreton
Cochrane	Lynch-Staunton
Cohen	Meighen
Comeau	Nolin
DeWare	Oliver
Di Nino	Rossiter
Doody	Simard
Eyton	Spivak
Forrestall	Stratton
Gustafson	Tkachuk — 26

#### NAYS THE HONOURABLE SENATORS

Adams	Kenny
Banks	Kolber
Bryden	Kroft
Chalifoux	Lawson
Christensen	Losier-Cool
Cook	Maheu
Cools	Milne
Corbin	Moore
Cordy	Morin
De Bané	Poulin
Fairbairn	Poy
Ferretti Barth	Prud'homme
Finestone	Robichaud
Finnerty	Rompkey
Fitzpatrick	Setlakwe
Furey	Sibbeston
Gauthier	Sparrow
Gill	Stollery
Graham	Taylor
Hervieux-Payette	Tunney
Hubley	Watt
Joyal	Wiebe — 44

#### ABSTENTIONS THE HONOURABLE SENATORS

Nil

**The Hon. the Speaker:** The motion in amendment is negated.

The question is on the motion of Senator Sibbeston, seconded by Senator Milne, for third reading of Bill C-4, to establish a foundation to fund sustainable development technology.



Is it your pleasure, honourable senators to adopt the motion?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** On division.

Motion agreed to and bill read third time and passed, on division.

## APPROPRIATION BILL NO. 2, 2001-02

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Finnerty, seconded by the Honourable Senator Sibbeston, for the second reading of Bill C-29, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002.

**Hon. Lowell Murray:** Honourable senators, before we broke for the vote, I was describing the supply and Estimates process in the House of Commons. The government, with the assistance of a Standing Order dating back to 1991, expedited the consideration of supply and Estimates. When the motion was put, it would have taken 25 MPs to stand and object. Only the Tories, who are not 25 in that place, stood. The Bloc Québécois did not stand. The Canadian Alliance did not stand, either because they did not know what was going on or because they were so anxious to leave and remove the spotlight from their own problems. They were willing to go along with anything. I do not know what the reason was for the NDP silence. Mr. Boudria's motion was considered a done deal. Therefore, on Tuesday night, there was a standing vote on motion number one. Motion number one was carried, 157 to 111.

Pursuant to that order, by which all the other items for which concurrence was sought, all the other orders were deemed to have been passed.

We then came to the following statement by the Speaker of the House of Commons. At page 5057 of the *House of Commons Debates* of June 12, 2001, he said:

I declare the motion carried.

Pursuant to order made earlier today, Motions Nos. 2 through 190 relating to the main estimates and standing in the name of the Hon. President of Treasury Board are deemed moved and seconded, the questions are deemed to have been put, and the motions agreed to on division.

Thus it was, honourable senators, that \$166 billion of the taxpayers' money was approved in the House of Commons for the current fiscal year.

Is that place an empty shell or is it not?

**Some Hon. Senators:** Hear, hear!

**Senator Murray:** It is an empty shell; it is all form and no substance. Sound and fury signifying nothing over there.

One can hear them demanding a greater role for individual members of Parliament, and then they weakly comply with an initiative such as that.

**Senator Bolduc:** Shame!

**Senator Murray:** They demand more power to review appointments to the Supreme Court. They seek the power to hobble the legitimate prerogatives of the Crown. Yet they do not exercise their own prerogative — the ancient prerogative of the power of the purge — to examine the Estimates.

• (1510)

By the way, where were those great guardians of the public weal in the parliamentary press gallery while all this was going on? Has anyone seen, heard or read anything about it in any of the media? I have not.

**Some Hon. Senators:** No!

**Senator Murray:** It is deplorable that Parliament has come to the sorry pass in which we now find ourselves.

I tell you that in the Senate, goodness knows, we do not do a line-by-line study of the Estimates, but we have already started with the Estimates for the current fiscal year. We have had several meetings. By the time we are finished, at the end of March, we will have subjected at least some aspects of federal government policy to close scrutiny and examination. We will have called ministers and officials to account.

Honourable senators, what is happening in the House of Commons? Nothing is happening. For the record, so that you know, I did table a report here the other day on behalf of the Standing Senate Committee on National Finance. We reported to you on some of the things we had been discussing in the context of the Estimates. We had heard from the Transportation Safety Board, because a number of senators, Senator Ferretti Barth principally, had expressed concern about the exposure of Canada to bearing an unfair share of the costs of rescue and recovery operations involving international flights because there are so many of them over our territory. We had the officials in and had a very considerable discussion around examination of that problem.



We heard from the President of the Treasury Board, Madam Robillard, and we spent a good morning in her company discussing both policy and technical aspects of the Estimates. We pressed her very much on Senator Kinsella's Bill S-6, the public service whistleblowing act. There is a serious difference of opinion between some honourable senators and the minister on that matter. She believes that a policy decision is sufficient. Senator Kinsella has put forward a bill that has not only wide parliamentary but wide public approval in this country.

We discussed the obvious discrepancy, if you wish, between the Estimates and what we were told in the most recent economic and financial update by the Minister of Finance in May. We discussed the matter that has come to the floor here several times, Bill C-4, the establishment of the Canada Foundation for Sustainable Development Technology, and we condemned the process by which an agency was created and funded to the extent of \$100 million without prior parliamentary approval.

The Chairman of the Public Service Commission appeared before us. We discussed such problems as the practice of limiting competition for federal jobs to only select areas of the country. We discussed official languages and employment equity.

Senators, especially Senator Bolduc, were concerned about the merit principle in the selection and promotion of public servants. In particular he had in mind such new quangos of federal agencies as Parks Canada and Canada Customs and Revenue Agency, which by a previous law passed in Parliament a year or two ago have been put at some remove from parliamentary oversight.

We discussed all those matters and we have many more to discuss as the fiscal year continues. I simply make the point that we in this place do a much better job than our friends and counterparts in the House of Commons, although it is our job and their ancient prerogative to wield the power of the purse.

**Hon. Jim Tunney:** Honourable senators, in an excellent address the previous speaker briefly mentioned the CBC. I should like to follow on with that and refer only to CBC radio. I am a rather reluctant fan of CBC radio. In my area, it is the best we have. It comes out of Toronto to my farm and home. I would like to remind honourable senators and the CBC that the grammar in programming and news reporting is becoming atrocious.

The so-called control room is out of control much of the time in that the volume goes up and goes down, depending on whether the program coming across is live or taped.

In many interviews and in programs that are taped the language is foul. I suppose it is intended to be entertaining, but it is not. It seems that we must tolerate this foul language, as nothing happens, regardless of how many times I phone CBC in Toronto and complain.

**Hon. Tommy Banks:** I wish to assure the honourable senator opposite, in spite of my laughing, that first of all I am in awe of the performance just given. Second, I wish to assure Senator Murray, as he well knows, that I was never laughing at him in derision, and never would.

**Hon. Edward M. Lawson:** In view of the criticism of the House of Commons, is Senator Murray suggesting it might be timely to change the House of Commons from an elected body to an appointed body so it may attract those people who take their job more seriously?

**Senator Murray:** Perhaps we should abolish the place and keep the Senate.

**Some Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

#### THIRD READING

**The Hon. the Speaker:** Honourable senators, when shall this bill be read a third time?

**Hon. Isobel Finnerty:** Honourable senators, with leave of the Senate, now.

**The Hon. the Speaker:** Is leave granted?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

[Translation]

## ROYAL ASSENT

### NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

June 14, 2001

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, will proceed to the Senate Chamber today, the 14th day of June, 2001, at 17:00, for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Barbara Uteck  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

• (1520)

[English]

## FEDERAL NOMINATIONS BILL

### SECOND READING—SPEAKER'S STATEMENT

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Cohen, for the second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Robichaud, P.C.*).

**The Hon. the Speaker:** Honourable senators, I have been asked under this order to make a ruling. I have no ruling, but I have a statement I wish to make.

[Translation]

You will recall that earlier this month, on June 5, Senator Joyal raised a point of order with respect to the possible requirement for Royal Consent in relation to Bill S-20. This bill, sponsored by Senator Stratton, seeks to establish a particular process within

the Privy Council for the appointment of individuals to certain government positions.

[English]

In presenting his case, Senator Joyal urged me as Speaker to take the time necessary to study this matter, since it involved an important constitutional question. For his part, Senator Stratton suggested that the matter of Royal Consent could be discussed in the Standing Senate Committee on Legal and Constitutional Affairs together with the bill after second reading.

This was followed by a proposal by Senator Kinsella, who asked that I not consider this to be a point of order "in the ordinary sense that would hold up debate on the principle of the bill." At the time, I expressed to the Senate my view that the debate would be allowed to continue while I considered the point of order.

As I have tried to come to grips with the issue, I have found it more difficult than I had anticipated to identify the scope of the Royal Prerogative that might require the signification of Royal Consent when it is to be affected by a bill. Even the standard procedural authorities that are normally useful guidelines to parliamentary practice have not been fully satisfactory. Nor have the Canadian and British precedents that I am reviewing helped me to resolve all the questions that I have about the purpose of Royal Consent. I will need more time to look into this surprisingly complex question more thoroughly.

With the indulgence of the Senate, I intend to continue my study into the matter and report back to the Senate with a ruling at the earliest opportunity. In the meantime, I would remind all honourable senators that it remains proper to continue the debate on Bill S-20. There is no absolute requirement to secure Royal Consent if it is considered necessary to the bill before third reading.

Should consideration of this bill be referred at some point to a committee, I would be very interested to see if expert testimony could be heard with respect to Royal Consent in general and with specific regard to its possible application with respect to Bill S-20.

[Translation]

## ILLEGAL DRUGS

### BUDGET—REPORT OF SPECIAL SENATE COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Special Senate Committee on Illegal Drugs (*budget - release of additional funds*) presented in the Senate on June 12, 2001.—(*Honourable Senator Nolin*).

**Hon. Pierre Claude Nolin** moved the adoption of the report.

Motion agreed to and report adopted.

[English]

# FOREIGN AFFAIRS REPORT ENTITLED "THE NEW NATO AND THE EVOLUTION OF PEACEKEEPING: IMPLICATIONS FOR CANADA"

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to the seventh report of the Standing Senate Committee on Foreign Affairs: *The New NATO and the Evolution of Peacekeeping: Implications for Canada*.—(Honourable Senator Prud'homme, P.C.).

**Hon. Anne C. Cools:** Honourable senators, I notice that this item today is at day 15. I am also very aware that we are running short of time today and that there is Royal Assent pending and many other pressing matters. I should like to take the adjournment and speak to this inquiry at some point in the future when there is more time.

On motion of Senator Cools, debate adjourned.

## INTELLECTUAL PROPERTY RIGHTS OVER PATENTED MEDICINES

NOTICE OF INQUIRY

Leave having been given to revert to Notices of Inquiries:

**Hon. Sheila Finestone:** Honourable senators, I give notice that two day hence, I will call the attention of the Senate to three diseases which are sweeping the developing world and which draw many to ask whether intellectual property rights over patented medicines have not taken precedence over the protection of human life.

• (1530)

## AFGHANISTAN

DECREE REQUIRING NON-MUSLIMS TO WEAR SPECIAL IDENTIFICATION—INQUIRY—DEBATE ADJOURNED

**Hon. Sheila Finestone** rose pursuant to notice of June 5, 2001:

That she will call the attention of the Senate to the Islamic Emirate of Afghanistan's May 22nd decree that would force non-Muslims in that country to wear special identification on their clothing. She believes it is important that this distinguished Chamber not remain silent on this question but go on record in expressing its collective

displeasure with that nation's flirtation with policies that set the stage for events that proved horrific in recent human history. Let us learn from our mistakes. Let us not repeat them.

She said: Honourable senators, on Tuesday, June 5, 2001, I drew this chamber's attention to the Islamic Emirate of Afghanistan's decree of May 22 that would force non-Muslims in that country to wear religious symbols on their clothing to denote a person's faith.

On May 24, our Minister of Foreign Affairs, John Manley, also condemned the Taliban's decision to identify religious minorities. He said that Canada is disturbed by reports of the Taliban's proposal that would force religious minorities in Afghanistan to wear special identification. He said:

I am shocked by these reports — discrimination on the basis of religion is abhorrent and is an affront to values held by all Canadians. I hope that the Taliban will come to its senses and not implement this terrible edict.

On May 30, the House of Commons Standing Committee on Foreign Affairs and International Trade tabled its third report in which it considered the situation of Afghanistan. The committee's report —

...condemns the recent actions of the Taliban in Afghanistan and recommends that the Government of Canada actively co-sponsor resolutions within the United Nations system which advocate the promotion and protection of religious freedom and respect of international humanitarian law in Afghanistan.

Honourable senators, I have attached to my statement the reports of the United Nations, which are quite fulsome and bring to our attention the dramatic situation.

As well, on February 10, 2001 Senator Poy rose in this chamber to describe her genuine concern about the desperate plight of women in Afghanistan. Among the circumstances described, my colleague mentioned that women were not permitted to leave their homes without a male relative, that windows were painted black so outsiders could not peer at the women inside, and that women were not allowed to work except as health care workers. Male doctors may not treat female patients; foreign aid agencies could not offer aid to women, and schools for girls were closed. These attacks against women and their living conditions are simply unacceptable in our global culture. I have been following this issue since it was raised at the Inter-Parliamentary Union.

In April of this year, IPU met for its 105th conference, where it adopted a consensus resolution that called upon Afghanistan's Taliban to comply with the United Nations Security Council's resolutions 1267 and 1333, as well as the United Nations General Assembly's resolution 55/243 of March 9, 2001.



In particular, the IPU called upon the Taliban to respect human rights in accordance with relevant international declarations, covenants and conventions, to end the grave violations of human rights of women and girls and to guarantee them unrestricted and equal access to health care, education and employment outside the home.

Whether there has been real improvement flowing from the Security Council and the General Assembly resolutions of March 9 and that of the Economic and Social Council of April 18 of this year, it did appear, honourable senators, that some progress is being made, even though it is far from what I would consider enough.

In a recent issue of the *Journal of Humanitarian Assistance*, in an article entitled "Making a Difference for Afghan Women," Paul Barker, Director of CARE in Afghanistan, reports the following: First, a Taliban edict prohibiting women from directly receiving humanitarian assistance has been nullified; second, 25,000 widows in Kabul are now able to receive monthly rations of food from CARE and the International Red Cross without fear of reprisal; third, a Taliban edict restricting all female health care to one dilapidated hospital in Kabul was resisted by international aid agencies. The Taliban amended their policy and now allow women to be seen in special sections of all hospitals.

In at least five provinces controlled by the Taliban, provincial authorities have given permission for girls to be educated and women to work in schools. Thirty-five per cent of the students in CARE-supported schools in the Taliban areas are girls, and 14 per cent of the students in Swedish Committee schools are girls.

There are numerous examples of women being allowed to work both inside and outside of the health care sector. Over 50 women work as clerks, distributors, monitors, community development agents, teachers and teacher trainers in CARE projects alone.

In response to queries from NGOs and the Taliban Ministry of Mines and Industry, the Taliban Ministry of Justice issued a judicial decision declaring that widows are allowed to work outside the home as long as they observe modesty in clothing, and married women can work if they have the permission of their husbands.

Mr. Barker went on to say, and I quote:

...building on what is known about the values and beliefs of the Taliban, their organizational structure, and the positive lessons learned by relief and development agencies...we can find a way forward for a brighter future for Afghan women...by using a strategy of positive engagement.

That is all very well and good, and although I am encouraged by some of this report, I certainly do not think it is enough to say that they are not continuing to behave badly.

The leadership by CARE, perhaps, had an impact on bettering the lives of some women, but have things really changed that much when we hear, on May 22, the Taliban decree requiring non-Muslims to wear some form of identification? Anyone from the West who grew up knowing the history of what occurred in Nazi Germany will have legitimate reasons for concern in this regard. None of us want to see a repetition of that horrific episode in history.

While the Taliban regime has claimed that the measure was introduced to safeguard the Hindu and other religious minorities living in Afghanistan, the thinking is worrisome, for it opens people to extremes. If this is how the moderates in that society believe they can protect their citizens, it is truly a sorry state indeed.

I also spoke with my colleague Senator Poy, who has been following these matters as well. She tells me that she has not heard of any significant change. I also spoke with our colleague Senator Andreychuk, who agrees that there has been very little change. There are significant grounds for being sceptical, and I, for one, am concerned.

What should we be doing as a chamber? Should we condemn the Taliban regime? That would be my choice. Should we recommend that the federal government deny any form of assistance it may be sending to Afghanistan at present or in the future? Should we encourage the Security Council of the United Nations to undertake another fact-finding mission in that state to learn what is going on and to recommend a course of corrective action, if using Mr. Barker's CARE plan strategy of positive engagement has had some substantial effect?

Honourable senators, I ask our government to encourage the United Nations to investigate the situation further so that we can make a balanced decision on what position this chamber can and should take in relation to the Taliban.

**Some Hon. Senators:** Hear, hear!

[Translation]

**Hon. Marcel Prud'homme:** Honourable senators, very often in the past, I have had occasion to disagree profoundly with Senator Finestone on such topics as Canada's policy in the Middle East or Israel's treatment of the Palestinians. It is clear that I am in complete agreement with the speech Senator Finestone has just given.

On this occasion, since I strongly, totally and unconditionally share Senator Finestone's opinion, I am pleased to say so publicly.

On motion of Senator Prud'homme, debate adjourned.

• (15:40)

## MR. FAISAL HUSSEINI

TRIBUTE—INQUIRY—DEBATE ADJOURNED

**Hon. Pierre De Bané** rose pursuant to notice of June 7, 2001:

That he will call the attention of the Senate to Mr. Faisal Hussein, one of the great leaders of the Palestinian people, who died on May 31.

**Hon. Pierre De Bané:** Honourable senators, I would like to pay tribute to a great man, Mr. Faisal Hussein, who passed away all too soon, on Thursday, December 31, in Kuwait.

It is impossible to fully comprehend the depth of the sorrow felt by the Palestinian population following the untimely passing of this great leader from one of the oldest and most famous Palestinian families. He was one of the most prominent figures of his people, but he also took part in every battle: military battles during the exile, political ones and street battles following his return to Jerusalem. As a leader of all kinds of protest against the occupant, he was roughed up, injured and jailed like others. He knew each and every part of Jerusalem but, above all, he had established exceptional ties with the population.

The huge cortege accompanying the body of this illustrious person showed the unique place that he had in the heart of every Palestinian. The funeral procession left Ramallah, in the independent territory of the West Bank, with Mr. Arafat and other leaders of the Palestinian Authority in attendance, and made its way to Orient House, in East Jerusalem, the unofficial headquarters of the Palestine Liberation Organization, which was under the responsibility of Faisal Hussein. Orient House was located in a building that had belonged to the Hussein family for generations.

Over 20,000 Palestinians accompanied the body to the mosque compound, where it was laid to rest next to Abdel Kader al-Husseini, the father of the deceased, who was killed in 1948 in the battle of Kastel, near Jerusalem.

Behind a sea of Palestinian flags, it was truly a show of independence such as had not been seen since 1967, when Israel conquered the eastern part of the city. People symbolically regained control of the area in an atmosphere of joy and warmth, singing slogans and raising their flag over the Damascus Gate, on the walls of the Old City. This was also a peaceful event, without any confrontation, as law enforcement services were kept some distance away. In the evening, when the last participants calmly left the compound, each side was pleased with how the day had gone.

Faisal Hussein was born in Baghdad, in 1940, after his father, Abdel Kader Hussein, the scion of an illustrious Jerusalem family, had been expelled from Palestine for leading, along with others, the great Arab revolt of 1936.

Abdel Kader Hussein came back secretly to Palestine in 1947, where he took part in the nationalist struggle before being killed

in 1948, with a gun in his hands, in Kastel, a small village close to Jerusalem. Palestinians, who had managed to win the battle, demobilized to attend his funeral, thus leaving the town to the Jews. It was on the following day that the Deir Yassin massacre took place, when 250 Palestinians were killed by extremist Jews of the Irgun.

After being expelled from Iraq, Abdel Kader Hussein's family went to Saudi Arabia, and then to Egypt, where Faisal graduated from the military academy, before joining Fatah's military school for officers, for which he became responsible, in Syria and then in Lebanon. In 1967, when East Jerusalem was occupied, he secretly made his way to the West Bank, by the Jordan River, for a first reconnaissance mission, and then travelled to the East Bank to ask his friends to do the same before Israelis shut the border. After their refusal, he committed his first act of disobedience and made his way back to Jerusalem.

He was then imprisoned for a year by the Israelis because of the discovery in his home of a weapon apparently handed over to him by Yasser Arafat during his clandestine stay on the West Bank after the war. In 1979, along with a number of Palestinian intellectuals, he founded the Arab Studies Society in East Jerusalem which went on to become Orient House, considered the unofficial headquarters of the PLO in Jerusalem. During the 1980s, Faisal Hussein was placed under house arrest on a number of occasions for his activism, and subjected to administrative detention without a trial. This was the case particularly in July 1988 when Jordan's King Hussein broke all ties with the West Bank, and Faisal Hussein drafted a declaration of independence for Palestine within the borders set by the UN territorial division of 1947.

Faisal Hussein was one of the key figures behind the first Palestinian Intifada, from 1987 to 1993, and one of the handful of Palestinian "representatives of the population of the occupied territories" whom the Jewish State deemed suitable participants in the peace process. As such, along with certain others, Hanan Ashrawi in particular, he met on a number of occasions with then U.S. Secretary of State, James Baker, the key architect of the peace process.

Neither Faisal Hussein nor any of the other Palestinian negotiators ever agreed to give in to Israeli demands that they break ties with the PLO. It remained their point of reference, and Yasser Arafat their mentor. In fact, it was the latter who designated Hussein to dialogue with James Baker and who entrusted him with the selection of the other members of the Palestinian delegation.

He was respected by Palestinians of all backgrounds, because of his distinguished lineage and his elegance of manner, coupled with great discretion and humility that were only equalled by his unshakeable political determination. That respect is what lies behind the unanimous tributes they are paying to him today.

Faisal Hussein was a man of audacity and independent spirit. As an example of this, in 1967, he refused to obey his leaders, who wanted to continue the battle against Israel "from outside," and instead infiltrated Palestine in order to continue to work "internally" within the occupied territories.



For all these reasons, and also because of his remarkable success in making the transition from military to political life, he was able to get away with almost anything. In 1987, when contacts with Israel were still viewed as high treason by most Palestinians, he did not hesitate to take the initiative of meeting on several occasions with a member of the Likud, Moshe Amirav, to discuss the idea of making Jerusalem the capital of both nations. This got him thrown in jail by then Prime Minister Itzhak Shamir.

Having fiercely opposed the Israeli occupation, Faisal Hussein played a key role in the peace process, driven by his belief in a peaceful resolution to the conflict.

In 1991, he headed a Palestinian delegation at a meeting with then U.S. Secretary of State, James Baker, to pave the way for negotiations between Israel and Palestine. He was also appointed head of the Palestinian delegation at the Madrid conference, which launched the peace process, despite Israel's objections to the fact that a resident of Palestine was being allowed to play a key role in these negotiations.

In the eyes of the world, Mr. Hussein became the spokesman in the Palestinians' battle to claim the eastern part of the city as the capital of the nation they hope to create.

The descendant of a family whose roots in Jerusalem go back eight centuries, Faisal Hussein had such a close and powerful tie with that city that it is difficult to overestimate:

My family has lived in Jerusalem for eight centuries. My connection with the city is rooted in culture, religion, and family, and does not stop there. It is a city like no other: here, the region becomes the world; the microcosm, the macrocosm. I even turned down a job as minister so that I could continue to live in Jerusalem.

Mr. Hussein believed strongly that Jerusalem was destined to become, in his words, "one city, two capitals."

If the problem of Jerusalem were to be resolved, he said, last December, in Bordeaux, France:

The Palestinian, Israeli, Jewish, Christian and Muslim factions must be taken into account. The solution is a city open to everyone, with freedom of circulation, and two capitals, East Jerusalem for the Palestinians, and West Jerusalem for the Israelis. This idea of East Jerusalem as the capital of Palestine, a solution we find reasonable and one we favour, is gradually winning acceptance.

[English]

Like some of his Israeli friends, he urged that Jerusalem become an open city that both Israelis and the Palestinians could

call their capital. He often described the first time he visited West Jerusalem in 1967 and saw the Israelis "as people and not only as soldiers." He talked about seeing "weak people, strong people, intelligent people, stupid people, children and even an old man and an old woman sitting together holding hands." That was when he began to think of coexistence, he said.

• (1550)

Hussein, the champion of coexistence with Israel, dedicated his life to cementing the Palestinians' claim to East Jerusalem as their capital. Hussein was beloved by Palestinians and viewed by many Israelis as a moderating force. A welcome guest on Israeli TV and radio programs, he explained the Palestinian view in Hebrew which he learned in Israeli jails. He never attained the lofty status of prime minister or president, but that would be hard to believe from the tributes that poured forth after his death. Perhaps no one else has as much respect among the range of Palestinians, Israelis and foreign officials alike.

Hussein was at the same time a peacemaker and a nationalist, a visionary and a pragmatist. His probity was unquestioned.

[Translation]

For me, who was born in Haifa, Palestine, my discussions with him at Orient House are among the most intense and most moving moments of my life. It was in April 2000, while I was accompanying the Prime Minister of Canada on a visit to the Middle East with, among others, Senator Marcel Prud'homme, Prime Minister Chrétien, the first foreign head of government to visit Nazareth, the headquarters of the Arab-Israeli community, had asked me to meet with Mr. Hussein officially, on behalf of the Government of Canada. I will never forget this meeting. Mr. Hussein radiated a gentle strength and had an immense capacity for listening I will not soon forget.

Tributes to this very great man have flowed in from all over.

[English]

In New York, Secretary-General Kofi Annan extended "heartfelt condolences to his family and to the Palestinian people for the loss of one of their most distinguished and principled leaders."

On the day after his death on June 1, the Security Council observed a moment of silence in his honour.

In Gaza City, Palestinian Cabinet Secretary Ahmed Abdel-Rahman said:

The Palestinian people lost a great hero and leader. He devoted all his life to Palestine and Jerusalem and to challenging the Israeli occupation.



Azmi Bishara, an Israeli Arab member of the Knesset who visited the Canadian Parliament a few months ago where he was the guest speaker of the Middle East Study Group, said:

He symbolized the continuity of Arab leadership in Jerusalem. He combined steadfastness in the struggle against Israeli occupation with a rational political sense. This combination is unique.

[Translation]

Émile Jarjoui, a member of the Palestinian Legislative Council has said, and I quote:

This is a catastrophe for all of Jerusalem. We have lost a hero and a fighter. Faisal Hussein devoted his life to Jerusalem and to Palestine.

French President Chirac said that he had left France with, and I quote:

...the image of a man of conviction, dialogue and tolerance.

French Prime Minister Lionel Jospin said he was moved by the loss of him. Claire Bertrand, a member of the Amnesty International group that had adopted Faisal Hussein during his detention by Israel, said of him, and I quote:

He was a most honourable man, a man of profound moral fibre.

[English]

On his death, praise from the Israeli left read like carbon copies of Palestinian lawmaker Hannan Ashrawi's description of Hussein as a "leader of integrity and vision and dignity."

Israel's left wing also spoke out. "We lost a partner today, somebody who was a Palestinian nationalist and who had his own principles and preferred to stick to them, but who was also a pragmatist," said former Justice Minister Yossi Beilin, an architect of the 1993 Oslo accords. On CBC, Mr. Beilin praised Mr. Hussein in these terms:

Faisal Hussein was the voice of sanity, and he was ready to negotiate with us in a pragmatic way.

Meron Benvenisti, an Israeli writer and a former Israeli Deputy Mayor of Jerusalem, was to describe him as "a man who had his family's sense of pride but was someone we could talk with and who understood us better than anyone else. The idea of peace, the hope for peace, has been dealt a heavy blow."

"He was a man of peace," said Menahem Klein, an Israeli professor who has worked to draft solutions to the issue of Jerusalem's future status. "His death is a great loss and leaves a leadership vacuum that I don't know who will fill," said Mr. Klein. "Faisal Hussein stayed quite a bit in Israeli prisons in the 1980s. But he was a diplomat, not a fighter. He was the most prominent leader in the Jerusalem area."

Dr. Moshe Amirav, one of the first Israelis to hold secret talks with Palestinians, told Israel Radio that he had been the host at a dinner last year with Mr. Hussein and a senior adviser to former Prime Minister Barak. "He talked about Jerusalem as a city of peace, a city of two capitals," said Dr. Amirav. "He had a very specific plan."

At the funeral of Hussein, Dr. Amirav was asked to address the crowd as one of several speakers. "I had the great honour to know a man who was a gentleman and a fighter for Jerusalem," Amirav later said of Hussein.

Opposition leader Yossi Sarid, head of the Meretz party, said:

Palestinians have lost one of their highest sons, who represented their cause with honour, courage, responsibility.

**The Hon. the Speaker:** I regret to advise the honourable senator that his 15 minutes have expired.

**Senator De Bané:** I ask leave to continue.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator De Bané:** I thank my dear colleagues. I have almost finished.

[Translation]

The U.S. State Department expressed, on Thursday, its sorrow at the loss of a man who worked for peace.

[English]

In Washington, U.S. State Department spokesman Richard Boucher said the United States was:

...very saddened by his passing. He's a man who has worked for peace in this region for many, many years. And I think all of us who knew him and who worked with him...extend our most sincere condolences to his family and to the Palestinian people.

In 1988, George Shultz, who was Secretary of State of the United States, suggested that Hussein would be an ideal partner in peace talks, but the then Prime Minister of Israel Yitzhak Shamir refused to allow it.

[Translation]

Enough quotes from the famous, I would point out that the tears of the people who were with him regularly bear witness to the strength of the ties Faisal Hussein had formed with the Palestinian people. Witness the following comments:

[English]

"What can I tell you, we never noticed that Faisal Hussein was a Palestinian official, he was like a father to us," said Fatima Abu-Quse, standing outside the headquarters of Orient House in tears.

"It's a big loss, not only for the Palestinians but for the rest of the world," said Ahmed Shoukry, 40, a family friend who was among about 100 people who had gathered outside Hussein's East Jerusalem home. "It's a loss for peace."

[Translation]

Faisal Hussein epitomized the Palestinian leader whose courage and loyalty to the ideals of his people had earned him the deep love of his compatriots. Because of his ability to understand the aspirations and hopes of his Israeli neighbours, Faisal Hussein had also become a leading spokesperson.

On motion of Senator Prud'homme, debate adjourned.

[English]

### TRIBUTE TO PAGES ON DEPARTURE

**The Hon. the Speaker:** Honourable senators, before proceeding to motions, I wish to take a moment of the chamber's time to advise that we have certain pages who will be leaving the Senate this year. I should like to recognize them now.

[Translation]

First, Donald Bouchard just completed his second year in the Senate. He will pursue a Master's degree at the University of Ottawa, in September.

• (1600)

[English]

Joshua Griffin will have completed his second year as a page in the Senate and will go on to complete his degree in English Literature at the University of Ottawa.

[Translation]

Pierre Lambert-Bélanger just completed his second year as a page in the Senate. He will be completing a B.A. in Common Law at the University of Ottawa this fall.

[English]

Daniel Mercer has completed his first year as a page in the Senate. He will be completing his Political Science degree at Memorial University this fall.

Laura Payton has completed her second year as a page in the Senate. Next fall she will become the news editor for the University of Ottawa students paper *The Fulcrum*.

Jason Pearman has completed his first year as a page in the Senate. In the fall, he will be going back to the University of Guelph to pursue his studies in Medical Engineering.

Chloe McAlister has completed her second year as a page in the Senate. In September, she will be completing her degree in Biochemistry at Dalhousie University.

We say goodbye to you. We wish you well. We sincerely thank you for the good service that you have provided to us during your time here.

**Hon. Senators:** Hear, hear!

[Translation]

### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT  
ON STUDY OF DEVELOPMENTS IN THE FIELD OF PERSONAL  
INFORMATION PROTECTION AND ELECTRONIC DOCUMENTS

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice of May 16, 2001, for the Honourable Michael Kirby, moved:

That, notwithstanding the Order of the Senate adopted on March 1, 2001, the Standing Senate Committee on Social Affairs, Science and Technology, which was authorized to examine and report upon the developments since Royal Assent was given during the Second Session of the Thirty-sixth Parliament to Bill C-6, an Act to support and promote electronic commerce by protecting personal information that is collected, used or disclosed in certain circumstances, by providing for the use of electronic means to communicate or record information or transactions and by amending the Canada Evidence Act, the Statutory Instruments Act and the Statute Revision Act, be empowered to present its final report no later than December 31, 2001.

Motion agreed to.

[English]

### NELSON MANDELA

MOTION TO DECLARE HONORARY CITIZEN OF CANADA

**Hon. Anne C. Cools,** pursuant to notice of June 12, 2001, moved:



That this House, recognizing the great moral leadership provided by Nelson Mandela to South Africa and to all humanity, agree that he be declared an honorary citizen of Canada.

She said: Honourable senators, this exact resolution was adopted in the Commons two days ago on June 12. It had been moved by John McCallum, the member for Markham. This resolution is not my initiative. In point of fact, John McCallum asked me on his behalf to move his very same motion here so that we could have a state of affairs where both Houses agreed and both Houses concurred. Obviously, I am pleased to assist Mr. McCallum.

I have just been informed, honourable senators, that the High Commissioner from South Africa is present with us today and sitting in the gallery. I thought that this fact should be noted on the record. I am told his name is His Excellency Mr. André Jaquet.

**Hon. Senators:** Hear, hear!

**Senator Cools:** Honourable senators, I shall be very brief because I know many senators wish to speak to this resolution today, and I also know that it is the wish of the chamber to vote on it, to pass its judgment and opinion on it.

Honourable senators, Mr. Nelson Mandela needs no introduction to anyone here. In point of fact, his greatness needs very little explanation because Mr. Mandela has touched the entire world because of his own personhood and his own personal existence.

Honourable senators, this man is a phenomenon. In point of fact, Mr. Mandela himself by his own personhood, averted civil and political catastrophe in South Africa, and allowed, by his very existence, a transformation of South Africa to a universal franchise, electorally based democracy, without carnage.

Honourable senators, on July 6, 1994, I spoke in this chamber. I was one of those Canadians who went as a United Nations observer to observe the South African election. At that time, I recorded a fair amount of the more interesting aspects of the history between Canada and South Africa. For example, I spoke about Mr. Diefenbaker's profound interest in the question of South Africa. I had also spoken at the time about the unique relationship and the expectation that was held at the turn of the century that the Boers in South Africa would find resolutions to their problems in pretty much the same fashion as the French Canadians had been accommodated in Canada.

On July 6, 1994, I made this particular statement and I should like to repeat it. I said in my speech:

This stupendous event —

— obviously the elections —

— in South Africa was made possible by the social and political collapse of the U.S.S.R. and the personal and political character of two men, Mr. Frederik Willem de Klerk and Mr. Nelson Mandela. I think that this South African election is the single most impressive political event

of the decade, possibly the century. It is certainly an enormous testimony to human endurance, to political will, and to political skill.

I believed that then, and I still believe that now. Only God will ever know what was truly averted.

Honourable senators, I wish to close by adding an anecdote now that I am aware that the high commissioner is with us. Historically there are some very unique and interesting relationships between South Africa and Canada. As senators know, South Africa and Canada were two of the gems, so to speak, of the dominion of Britain abroad. What I am referring to here is the particularly cordial relationship that existed between our own then Prime Minister William Lyon Mackenzie King and the then Prime Minister of South Africa General Smuts, who in particular issues at the various Imperial conferences were able to give each other support.

• (1610)

This is an anecdote, and it should be looked into at some point in time, but I was told that the current residence of the High Commissioner from South Africa to Canada was personally chosen and identified by Mr. William Lyon Mackenzie King. It was an interest of Mr. Mackenzie King to know the architecture of Ottawa. Apparently, he had wanted a certain kind of residence for the Government of General Smuts.

Having said that, honourable senators, I shall yield the floor to senators whom I know are eager to speak.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, on behalf of the opposition, we enthusiastically support this motion.

I draw to the attention of honourable senators the title of Nelson Mandela's autobiography, which was *Long Walk to Freedom*. Some of the early partners holding hands with Nelson Mandela, as he began that long walk, were a number of distinguished Canadian Prime Ministers. First, the Right Honourable John Diefenbaker, who was the first to walk with the people of South Africa as they struggled to deal with the scourge of apartheid. In more recent times, it was the Right Honourable Brian Mulroney, who took the leadership, not only within the Commonwealth but also within the G7. All Canadians were probably surprised at the time to see them cross swords with the then Prime Minister of Great Britain and insist, as Prime Minister Mulroney spoke for Canadians, that the practice of freedom must always triumph over historical practices, over material considerations, over economic, social and cultural bondage.

Honourable senators, it is noteworthy as well that when former Prime Minister Joe Clark, now Leader of the Progressive Conservative Party of Canada, was foreign minister, he visited Lusaka shortly after Nelson Mandela was liberated from prison. Nelson Mandela had gone to Lusaka to meet with the members of the African National Congress. It was at that time that our national leader, then Minister of External Affairs for Canada, was able to form the same assessment as many freedom fighters in Canada and around the world were able to form: It is not always necessary to struggle for freedom by use of the sword; it is not always necessary to kindle or to give oxygen to the fires of community memories.



Honourable senators know that the bonded peoples of South Africa certainly had many collective memories. Mr. Mandela's approach, which has been singled out, was one of moving forward and not flaming the injuries of the past.

I had my own opportunities, honourable senators. Nelson Mandela was still in prison on Robben Island when I visited that most beautiful country. For honourable senators who have yet to visit South Africa, a treat awaits you. It is one of the most beautiful countries in the world. All the peoples of South Africa, in my experience, are the most hospitable and warm people; from the indigenous peoples to the Afrikaner community.

I shall close by saying that the Government of Canada, having heard a similar motion in the other place and recognizing that we are debating a motion today, would issue the appropriate Order in Council that there be a minute of the Privy Council of Canada naming Dr. Mandela an honorary citizen of Canada. Perhaps at some point we might wish to examine the process of how we would go about extending the honour that we, as Canadian citizens, feel it is. In the fall, we may wish to study whether we want to see a provision in the Citizenship Act.

Let me close by simply saying, in the words of one of the great peoples of South Africa, the Zulu, *ngiyabonga*. Thank you.

[Translation]

**Hon. Marcel Prud'homme:** Honourable senators, it is rare for me to reveal my sources, but I must admit that I took the initiative earlier today to call His Excellency the Ambassador to inform him that we would be discussing this matter around four o'clock this afternoon. I am delighted that he is here and I wish him the most cordial of welcomes.

His Excellency will realize that the honourable senators wanted to particularly honour this extraordinary man as one of their final acts this session.

In the past, when I chaired the House of Commons Committee on External Affairs and National Defence, I was often invited to visit South Africa. For I do not know how many years, I refused out of principle.

That may have been a mistake. Perhaps I could have gone and tried to alter the course of history, but I doubt it.

[English]

If I reflect on my university time, I remember that as president of the students at the University of Ottawa, it was very a difficult event for me and for my future. I ended up at the University of Montreal. In my younger years, I had the honour of burning in effigy Governor Orville Faubus, during initiation week, for his anti-Black policy. Over the years, I repeated that very legitimate performance, which showed the disgust that the university students had for the policy of the day.

Honourable senators, I wish to join with Senator Kinsella in reminding the Senate of the actions taken by the Right Honourable Prime Minister John Diefenbaker, with whom I was very close. I never missed a speech of his. He would inform my office, through his secretary, of when he would be speaking in the House. I would be there, sometimes almost alone, facing him and applauding him, or disagreeing with him. I wish also to pay the same courtesy to Mr. Brian Mulroney, as Senator Kinsella said so well.

I will not speak long on this great hero. I am well prepared, but sometimes a few words are much better.

I draw the attention of honourable senators to a book signed by Mrs. Aline Chrétien recently. It is a book by Daryl Rock entitled *Making a Difference, Profiles and Abilities*. I believe it was published here. It speaks of the disabled, who have showed the way to live, even though they may be handicapped. The quote I wish to comment on reads:

I can honestly say that I was never affected by the question of the success of an undertaking. If I felt it was the right thing to do, I was for it regardless of the possible outcome.

I thought this was fabulous. It is signed, Golda Meir.

• (1620)

I was very disturbed when I arrived on a Monday night in 1985 and saw something very unusual for that hour — over 60 members present at Private Members' Business to debate a motion to proclaim Raoul Wallenberg the first honorary Canadian citizen. The motion had not been announced and we were not prepared. I had to give my consent four times: I gave consent to Reverend Roland de Corneille, whom some of you may remember: I gave consent to Mr. Ricard, a Conservative member, who sponsored a bill to send this question to the committee on immigration; I consented to not sending these two bills to committee for further study but to withdraw them.

There was a new motion put that night to proclaim, that very night, Raoul Wallenberg as our first honorary Canadian. The press is always comparing the two. The first honorary citizenship was given posthumously, although we claimed then that he was still alive in a Soviet jail. The press today, unable to do their homework, said that we gave it to a dead body. According to the Senate and the House, he was not.

On a Monday night in December of 1985, some people wanted to kill the bill. I made sure they did not, even though I was not knowledgeable about the bill. A few minutes before six o'clock, we passed that bill and it came to the Senate. I do not want to embarrass any senators but it was one of the wildest days in the Senate. When the resolution was introduced, one very gentle senator said that he wanted to seek some advice, and withheld his consent. That was the end of the session on Tuesday, December 10, 1985.

My friend Guy Charbonneau was the Speaker at that time. He was almost in Montreal when he was called back urgently for a second sitting that day, to pass the resolution that was refused passage at the first sitting. We had never seen that happen before in the history of the Senate, and I hope never to see it again. It happened because people were not part of the decision-making process — people did not know.

If you want to know more, read the *Debates of the Senate* of Tuesday, December 10 and Wednesday, December 11. The debate continued at the end of December and in January, February and March. You know how Allan McEachen was when he started to scrutinize. He continued to ask questions of Mr. Roblin.

Honourable senators, I believe the time has come for due process. As an old parliamentarian with 38 years of experience and an institutional memory, I do not want to face again such an embarrassment as we are facing now, where one member objects.

I will remind you of how Raoul Wallenberg became an honorary citizen in the United States, and you will understand. The United States of America has only two honorary citizens — Winston Churchill and Raoul Wallenberg. Mr. Wallenberg was given this honour because of the great support of a Jewish Hungarian who was saved, as were many of my friends in Montreal, by Raoul Wallenberg. The resolution to grant this honour went through the appropriate committees in the Senate and in Congress and was signed by Mr. Reagan. That is the way it was done then and that is the way it should be done in the future.

I regret the way it was done here, even though we all agree that this man was one of the great lights of hope for people who believe that you can have peace and justice with pride and reconciliation.

That is what Mr. Mandela believed in. Mr. Mandela answered to the United States by saying, "I take no lesson from anyone. If I so decide, I will go to Cuba to thank the Cubans for their support in my struggle." One of his first visits after his release from prison was to Libya, to thank Mr. Gaddafi. Whatever you think of Gaddafi, he takes no lesson for having supported the Palestinian just cause.

The man we are honouring today is a man of courage, a man who is so reasonable and understanding. He was put in jail for 27 years, where he reflected. When he came out, he could have put fire in the blood of all of Africa. Instead, he said that even though he had spent 27 years in jail, even though he was falsely accused, even though he suffered for his people, he would preach reconciliation. He came out to build a new Africa. He came out and became an example for the people of the world who suffer

today. There are other places in the world where people suffer because we are afraid to stand up for them.

The inspiration of my life is to have seen Mandela slapped back and forth, insulted by his own colleagues and his own friends, yet remain calm and joyful. Look at him.

[Translation]

A man with an aura of serenity, believing that more progress can be made by experiencing what he has experienced, and reflecting to the rest of humanity serenity and goodness, but determination as well; the determination not to fear solitude. The determination to speak out for justice, to say: I will act even if it brings me suffering. His is an example the young pages here in the Senate should always keep in mind.

[English]

To give an example, the other night there was a big reception in reconciliation with Saudi Arabians. On my way out, I saw a man whom I recognized. He did not know that I campaigned for him in Vancouver with students. He was with a young gentleman in his thirties who said, "You don't know me but I know you." This for us, senators, who receive so much from the people of Canada by being here, shows us that we should never be afraid to share our feelings with the young people of Canada. However, we need examples.

That young man said, "I remember you. You said one word to us in the chamber. You said 'dare'." René Lévesque used to say "osez." This same young man told me that today he is chief of staff of the new minister. That is luck for me, but I do not need it.

Senators, convey to young people that people such as Mandela, who will be honoured today, are that kind of inspiration. But please, government of today, governments of tomorrow, parliamentarians of tomorrow, let us get our act together. Let us stop the practice of having surprise motions for honouring people without following the due process of Parliament. In that way we will avoid the immense embarrassment that we went through last week.

• (1630)

Let us forget the past. Let us take it as inspiration for the future, to put our house together so that this never happens again, and to convey to His Excellency and his people the strong feeling of the people of Canada.

We live in a democracy. In the United States there was a vote for Raoul Wallenberg, of 396 to 2. Let these two swallow their pride. That is democracy. I do not want Canada to be a steamroller. You know what I am talking about, senators. Some people seem to know more than others. I am talking to you, senator.



I will conclude. I do not want to be ruled out of order and need to make a request to continue.

I am happy that you are here, sir. You are South Africa for us. I am happy that Senator Cools asked us to give unanimous consent for this motion. I shall give my consent.

**Hon. Vivienne Poy:** Honourable senators, I rise to speak in support of Senator Cools' motion to declare Nelson Mandela an honorary citizen of Canada. I feel privileged to speak about Nelson Mandela for, throughout his life, he has served as an inspiration to people around the world.

Through his patience and endurance in the face of great oppression, he taught us the value of forgiveness and reconciliation. He showed us that a people's will to achieve freedom and democracy can triumph over all the weapons of an oppressive regime. He fought for the freedom of the human spirit, where blacks and whites can live together in peace, and he was prepared to die for his beliefs.

After 27 years in prison, Nelson Mandela was without bitterness or anger. Instead, he was filled with hope for the future of his country. It was hope and love, rather than hatred and revenge, that allowed for an end to Apartheid in South Africa. Despite his many experiences of human brutality, Nelson Mandela has faith in the fundamental goodness of humankind.

Canada has a close and abiding relationship with Nelson Mandela. Long ago, we recognized the injustice that was Apartheid and actively fought for its end. In 1990, when he visited Canada's Parliament, he spoke about the great friendship between our peoples. At that time, he was still denied citizenship in his own country. In 1998, he returned to Canada as the elected representative of South Africa.

This fall, we hope once again that he will have the opportunity to come to Canada, as a citizen of our country. It is one of the greatest honours that we can bestow, and it is a fitting tribute to such a giant of humanity.

**The Hon. the Speaker:** Is the house ready for the question?

I must advise honourable senators that if Senator Cools speaks now, her speech will have the effect of closing the debate.

**Senator Cools:** Honourable senators, I should just like to complete the debate, to close it, and to thank those senators who participated and, as well, to point out to all that I believe there is significant support here for this particular motion.

As other speakers have said, and as I have said at different times in this chamber, the accomplishment of bringing the black people of South Africa into the governance of South Africa, and of bringing the vote to all those millions of people, is an enormous, extraordinary, even superhuman achievement.

Honourable senators, I would like to close by saying two little things only, one of them on the question of bloodshed and

carnage in South Africa. Sir Laurens van der Post, a very great South African author, once wrote about a particular South African tribe of people, the bushmen. He said the following words, which I think articulate the reason that Mr. Mandela has been able to garner the personal support that he has:

You cannot eliminate something precious in life without killing something in your soul.

Honourable senators, as I said before, when I witnessed that election in South Africa, I felt exposed to danger and I felt very vulnerable, but I truly felt at that point in time that I had witnessed an appointment with destiny.

**Hon. Marcel Prud'homme:** Honourable senators, I rise on a point of order. We know we may leave now. Would His Honour indicate to us if the government of the day could be informed of what took place here today? We are leaving, as is certainly the wish now of both Houses. I do not know if it is regular. Even if it were irregular, I ask unanimous consent that the comments of Senator Kinsella and the wishes of the Senate be brought to the attention of the government so that the appropriate action could be taken right away. They know what went on in the House. They should know what went on here, and the wishes we are expressing.

If someone can help me in this, I would only say that we wish the His Honour the Speaker to inform the government. Someone who knows the rule better than I could do it, but the message of today should be brought to the attention of the government.

**The Hon. the Speaker:** I am not sure, honourable senators, if that is a point of order. I think, Senator Prud'homme, our next item of business is instructive in this matter in terms of the difference between the executive and legislative branches of government.

Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** I would draw the attention of honourable senators — and perhaps this has already been done — to the presence in our gallery of the High Commissioner to Canada from South Africa, His Excellency, André Jaquet.

On behalf of all honourable senators, I bid you welcome.

**Hon. Senators:** Hear, hear!



[Translation]

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of 50 presidents of senior citizens' clubs. These clubs are under the umbrella of the regional council of Italian-Canadian seniors, who represent 10,000 Italians from Montreal, and whose founder is one of our colleagues, the Honourable Marisa Ferretti Barth.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

• (1640)

[English]

### FOUNDATION TO FUND SUSTAINABLE DEVELOPMENT TECHNOLOGY

RESOLUTIONS OF STANDING COMMITTEES OF ENERGY, THE  
ENVIRONMENT AND NATURAL RESOURCES AND  
NATIONAL FINANCE—MOTION TO FORWARD  
TO COMMONS—DEBATE ADJOURNED

**Hon. Mabel M. DeWare,** pursuant to notice of June 13, 2001,  
moved:

That the Senate endorse and support the following statements from two of its Standing Committees in relation to Bill C-4, being An Act to establish a foundation to fund sustainable development technology.

From the Fifth Report of the Standing Senate Committee on Energy, the Environment and Natural Resources the following statement:

"The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of \$100 million of taxpayer's money with that corporation, without the prior approval of Parliament, is an affront to members of both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process."

From the Eighth Report of the Standing Senate Committee on National Finance, being its Interim Report on the 2001-2002 Estimates, the Committee's comments on Bill C-4:

"Senators wondered if this was an appropriate way to create such agencies and crown corporations. They questioned whether the government should have passed the bill before it advanced the funding. The members of the Committee condemn this process, which creates and funds a \$100 million agency without prior Parliamentary approval."

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with the Senate's views and conclusions on Bill C-4, being An Act to establish a foundation to fund sustainable development technology.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I do not have anything prepared because I think the motion speaks for itself. It is a natural follow-up to the concerns expressed by two of our standing committees to the effect that the financing of the sustainable development foundation, which we have just approved today, was done in a most irregular manner, to use a careful word.

The Standing Senate Committee on Energy, the Environment and Natural Resources felt that these concerns should be brought to the attention of the House of Commons through a message from our Speaker to its Speaker, to the effect that the form of financing and the sequence of events are a circumvention of the parliamentary process, while the Standing Senate Committee on National Finance condemned the process because funds were created without prior parliamentary approval.

The Leader of the Government in the Senate yesterday tried to justify the transfer of funds by invoking Vote 5, which Treasury Board can use when an existing program of Parliament lacks funds for legitimate reasons that prevent it from carrying on its program. Funds through Vote 5 are then advanced to that department and recovered through the Supplementary Estimates. In this case there was no program to justify the use of Vote 5. In addition, the Estimates of two departments show each \$50 million to be advanced to the foundation, but the Estimates have yet to be approved. The supply bill was only given third reading today and has yet to be given Royal Assent. Thus, nowhere can we find prior authorization for the funds to justify advancing any amount of money to a private corporation whose objective had yet to be approved by Parliament. This is a problem for many of us on both sides, because the evidence was discussed and questioned by members of both sides. This was a Senate effort, not a partisan effort.

Let me also state that no one in the other place, diligent as they are, as Senator Murray told us a few moments ago, ever picked up on this blatant disdain of the parliamentary process. Nowhere at second reading, in committee or at third reading was it found, was it discussed. However, thanks to the good efforts of the Senate Energy Committee and the Finance Committee, ministers were questioned and the answers given were not at all satisfactory, while the statements made here by the Leader of the Government are also not at all satisfactory.

I think it behooves us to alert the House of Commons that, once again, they have failed in their duty; that this house has been able to do what they should have done. It seems that we are becoming the chamber of sober first thought rather than second thought, because more and more over there, as Senator Murray so accurately explains, the Estimates for \$165 billion go through in a matter of minutes without any serious examination whatsoever. At the time, on television, I watched the proceedings that Senator Murray has described, and it was pathetic to see what happens in their so-called Committee of the Whole. Nothing happens.

**Senator Bolduc:** And that is their primary function.

**Senator Lynch-Staunton:** As Senator Bolduc points out, their primary function is to oversee the purse, and in the case of the Estimates and Supply they failed, and in this particular case, they also failed.

The least we can do through this motion is to alert them to their delinquency by quoting the conclusions of both committees. We could also have added the great concern shown by the Auditor General designate, but since there is no formal report by her, it would have been imprudent to include her remarks which were based on only partial fact, but I think enough for her to realize that what has been said here is more than accurate.

By including the conclusions of both committees, this resolution instructs the Speaker of this house that he acquaint the House of Commons of the Senate's views and conclusions on this bill. I think that that is quite in order, and I urge all senators to support the motion that Senator DeWare has put down.

**Hon. Senators:** Hear hear!

On motion of Senator Robichaud, debate adjourned.

• (1640)

[Translation]

## ADJOURNMENT

Leave having been given to revert to Notices of Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, September 18, 2001, at 2:00 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned during pleasure.

## ROYAL ASSENT

Her Excellency the Governor General of Canada having come and being seated upon the Throne, and the House of Commons having been summoned, and being come with their Deputy Speaker, Her Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Judges Act and to amend another Act in consequence (*Bill C-12, Chapter 07, 2001*)

An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence (*Bill S-24, Chapter 08, 2001*).

An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions (*Bill C-8, Chapter 09, 2001*).

An Act to amend the Patent Act (*Bill S-17, Chapter 10, 2001*).

An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act (*Bill C-17, Chapter 11, 2001*)

An Act to amend the Proceeds of Crime (Money Laundering) Act (*Bill S-16, Chapter 12, 2001*)

An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts (*Bill S-3, Chapter 13, 2001*)

An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence (*Bill S-11, Chapter 14, 2001*)

An Act to amend the Excise Tax Act (*Bill C-13, Chapter 15, 2001*)

An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco (*Bill C-26, Chapter 16, 2001*)

An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act (*Bill C-22, Chapter 17, 2001*)

An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act (*Bill C-3, Chapter 18, 2001*)

An Act to amend the Federal-Provincial Fiscal Arrangements Act (*Bill C-18, Chapter 19, 2001*)

An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act (*Bill C-28, Chapter 20, 2001*)

An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act (*Bill C-9, Chapter 21, 2001*)

An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts (*Bill C-25, Chapter 22, 2001*)

An Act to establish a foundation to fund sustainable development technology (*Bill C-4, Chapter 23, 2001*)

An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (*Bill S-25*)

An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (*Bill S-27*)

An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (*Bill S-28*)

The Honourable Bob Kilger, Deputy Speaker of the House of Commons, then addressed Her Excellency the Governor General as follows:

May it please Your Excellency.

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Excellency the following bill:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002 (*Bill C-29, Chapter 24, 2001*)

To which bill I humbly request Your Excellency's assent.

Her Excellency the Governor General was pleased to give the Royal Assent to the said bill.

The House of Commons withdrew.

Her Excellency the Governor General was pleased to retire.

• (1720)

[English]

The sitting of the Senate was resumed.

**Hon. Bill Rompkey:** Honourable senators, before we depart, on behalf of all of us, I wish to thank those who have served us so well over the past session. I include the Clerk of the Senate, the Table officers and those who work with them, the Black Rod and her staff, including those who serve us the food that we get in the back of the chamber from time to time. I include as well the Hansard reporters, the staff in all our offices, including both whips and their staff, the pages, who have already been thanked, the interpreters, the security staff who serve us so well, and those who keep these buildings on our behalf. I thank them all on behalf of honourable senators at this time.

**Hon. Senators:** Hear, hear!

**Hon. Mabel M. DeWare:** Honourable senators, at the beginning of our sitting today, I did what Senator Rompkey has just done. However, I want to say that we will do it again now.

The Senate adjourned until Tuesday, September 18, 2001, at 2 p.m.



## APPENDIX

May 22, 2001

Dr. Robert Stewart  
Chair  
North Ritchot Action Committee  
Suite 261  
35-2855 Pembina Highway  
Winnipeg, MB R3T 2H5

Dear Dr. Stewart:

Thank you for your letter of April 9, in which you express concern with respect to revisions proposed for the rules of operation for the Winnipeg Floodway and the process by which the revisions are being made and approved.

As you are aware, the 1962 agreement between Manitoba and Canada assigns responsibilities to both parties with respect to the control and operation of the Winnipeg Floodway, including approval of revisions to the program of operations.

On December 28, 2000, Manitoba requested that Environment Canada review and grant approval of the revised rules of operation. Environment Canada has carefully considered the technical soundness of the proposed rules of operation, which incorporate changes that will assist in protecting Winnipeg from dike failures and extensive storm and sewer backup. As you may already know, the proposed rules of operation are supported by the Red River Floodway Operational Review Committee.

My department has taken into account concerns that the operation of the floodway could lead to artificial flooding of upstream communities, and also the desire of those communities to be engaged in the development of the rules of operation. On the basis of this review, I have granted approval of the proposed rules of operation, with a strong recommendation that Manitoba undertake consultations with its citizens on the rules of operation and other measures, as advocated by the International Joint Commission, at the earliest possible opportunity.

Mr. Jim Vollmershausen, Regional Director General, Prairie and Northern Region, is available to discuss this decision with you further. Mr. Vollmershausen may be reached by telephone (780) 951-8869 or by fax at (780) 495-3086.

I appreciate your taking the time to write, and trust that you will find this information useful.

Yours sincerely,  
Original signed by

David Anderson, P.C., M.P.

cc: Mr. Jim Vollmershausen  
North Ritchot Action Committee  
Suite 261  
35-2855 Pembina Hwy.,  
Winnipeg, MB  
R3T 2H5

9 April 2001

Hon. D. Anderson  
Minister of the Environment  
Government of Canada  
House of Commons  
Ottawa, ON

Dear Minister Anderson:

The North Ritchot Action Committee (NRAC) represents residents living immediately upstream of the Winnipeg Floodway in matters arising from the 1997 Red River Flood. In addition to direct communication, we have previously provided you with copies of related correspondence (Attached). I write now to renew your attention on the very real and legitimate concerns of our residents with respect to revisions proposed for the Rules of Operation for the Winnipeg Floodway and the process by which those revisions are being made and approved.

Specifically, NRAC and upstream residents are concerned about your department's participation and support for the Red River Floodway Operating Rules Review Committee and your Departments apparent intent to approve the operating rules without due regard to the interests of upstream residents. This is, of course, contrary to NRAC's position that there should be open and public discussion of the Rules of Operation; a position soundly endorsed by both the Manitoba Water commission and the International Joint Commission.

In your correspondence to NRAC of February 23, 2000 you stated:

*"Environment Canada committed to working with the Manitoba government to fulfill obligations arising from the 1962 agreement. The knowledge gained ... will form a basis for developing the rules of operation for the floodway and will also take into account the protection of the City of Winnipeg and upstream communities [emphasis added]"*

In an attached E-mail, Mr. Jim Vollmershausen of your department stated:

*"On December 28, 2000, Environment Canada received a revised rules of operation from the Province of Manitoba. The province has requested that Canada review and grant approval of these rules of operation in accordance with the original agreement between Manitoba and Canada. It is Environment Canada's intention to address this request as appropriate in the coming months."*

NRAC has two obvious concerns with the above comments. The first of these is that the Province of Manitoba is currently seeking approval for a condition in the 1962 agreement that reads, in part:

*20.(1) The Province will submit to the Federal Minister for approval prior to completion of the floodway [emphasis added]*

*(a) a program for the control and operation of the floodway under routine conditions and emergency conditions, and*

It is not clear to NRAC how the proposed rules of operation recently submitted to your department for approval can satisfy the original agreement when they were not submitted prior to completion of the floodway. In fact, the original 1970 rules of operation were drafted 2 years after completion of the floodway. They were not approved at that time and revisions made to them in 1984 were never submitted by the province. It appears that your Department is considering approval of revisions for rules that were never approved, under a schedule which violates the original federal-provincial agreement to authorize your pending approval. Perhaps it is time for a new federal-provincial agreement that reflects the needs and requirements of this century.

Our second concern is that there is no indication from your Department that your approval process will include public consultation or "will take into account the protection of the City of Winnipeg and the upstream communities" as stated in your letter of February 23, 2000. NRAC's previous correspondence to you (August 3, 2000) documents the absence of any consideration of upstream interests in the development of the current rules of operation along with the absence of any meaningful public consultation. Indeed, the Province of Manitoba actively excluded public discussion. It did receive over 80 written submissions from residents objecting to some of the proposed changes and asking for public meetings but refuses to indicate how it acted on those requests.

NRAC's view has always been, and remains, that informed and involved stakeholders are critical to the development of the flood protection measures in the Red River basin. This view is supported by recent assertions in the IJC report Living with the Red. The report states:

*"Clearly, the protection of Winnipeg must be given a high priority. But it is equally clear that proposals for additional protection for the city or alterations to the operating rules for the Winnipeg Floodway must take into account of the full economic, social and human costs for other areas that would be affected by such measures. A transparent process of open consultations must be established to ensure residents of such areas have an opportunity to be an integral part of any decision-making process."* (p.31).

The IJC incorporated this philosophy into its Recommendation #3.

NRAC's position that the concerns of upstream residents have not been considered is further supported by observations of the IJC:

*The Commission knows from its many visits with local residents, public hearings, and study of the flood that the human toll is high and is real. There is no way to assign an economic benefit to the value of knowing one is relatively safe from future floods or the economic cost of the trauma of knowing that you can once again be flooded. Uncertainty about the amount and timing of compensation from governments still are important issues in many people's minds. Many residents upstream of the Winnipeg Floodway who were harmed by increased water levels caused by the way in which the Winnipeg Floodway was operated to save Winnipeg feel that the matter still has not been satisfactorily addressed by the government of Manitoba."* (p. 36).

It is the very issue of "security" addressed by the Commission that residents upstream of the Floodway have enunciated to the Manitoba Water Commission, the IJC and all levels of government. Our security remains threatened by the lack of consideration for compensation attributable to the Floodway operation, the absence of public consultation or dialogue, and the absence of meaningful representation of upstream residents. The only compensation presently available is through the Disaster Financial Assistance Agreement (DFAA) which is subject to the political whims of the government of the day and the availability of funding by Parliament. By its very nature the DFAA cannot contribute to the security that upstream residents are entitled to.

Over the course of our correspondence with you, NRAC has advocated that full and meaningful representation by upstream residents in an open and transparent consultation process, consideration of compensation for future damages arising from the operation of the floodway, and an analysis of the social and economic impacts of the floodway operation are necessary prerequisites to any meaningful review of the floodway operating rules. Both the Manitoba Water Commission and The IJC have supported this position. We trust that after careful consideration of the facts that you too will arrive at the same reasonable conclusion and take the necessary actions to restore the rights and security of residents living upstream of the floodway.

We look forward to hearing from you soon and would be pleased to meet with you and Departmental representatives to further discuss our mutual positions and the significance of this matter. Please do not hesitate to contact me at (204) 261 6218 or by fax (204 261 8156).

Sincerely,

Original signed by

Dr. Robert Stewart  
Chair,  
North Ritchot Action Committee

## Attachments

Cc w/o attachments

R. Duhamel, Minister of Veterans Affairs, Secretary of State (Western Economic Diversification)  
L. Vancilief, Minister of Agriculture and Agri-Food  
J. Manley, Minister of Foreign Affairs  
M. Spivak, Senator  
S. Carstairs, Senator  
T. Stratton, Senator  
L. Legault, International Joint Commission  
R. Stefaniuk, Reeve of Ritchot  
R. Loudfoot, Association 768  
V. Baird, Ste. Agathe Economic Development





**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
 (1st Session, 37th Parliament)  
**Thursday, June 14, 2001**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29  1 at 3rd	0 +	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17  11 + 2 at 3rd (01/06/06)		01/06/07		
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30							
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14							
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications					
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14							



C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01

## COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5			
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Privileges, Standing Rules and Orders					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Privileges, Standing Rules and Orders					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		

S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	<i>Bill withdrawn pursuant to Commons Speaker's Ruling</i> 01/06/12
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn 01/05/10)				
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications				
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12		Energy, the Environment and Natural Resources				
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26 Social Affairs, Science and Technology				
S-22	An Act to provide for the recognition of the <i>Canadien</i> Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry				
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications				
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11						
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12						

## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

# CONTENTS

Thursday June 14, 2001

	PAGE		PAGE	
<b>SENATORS' STATEMENTS</b>		<b>The Environment</b>		
<b>The Honourable Mabel M. DeWare</b>		Winnipeg Floodway—Federal Government Involvement		
<b>The Honourable Erminie J. Cohen</b>		in Further Development.		
Tribute on Retirement, Senator Fairbairn .....	1170	Question by Senator Stratton.		
<b>The Senate</b>		Senator Robichaud (Delayed Answer) .....	1172	
Administrative Staff—Expression of Appreciation.		<hr/>		
Senator DeWare .....	1170	<b>ORDERS OF THE DAY</b>		
Nunavut—Unveiling of Coat of Arms, Senator Adams .....	1170	<b>Farm Credit Corporation Act (Bill C-25)</b>		
<b>Nova Scotia</b>		Bill to Amend—Third Reading, Senator Tunney .....		1173
Youth Speaks Up Program, Senator Cordy .....	1171	<b>Appropriation Bill No. 2, 2001-02 (Bill C-29)</b>		
<b>Visitor in The Gallery</b>		Second Reading—Debate Suspended, Senator Murray .....		1173
The Hon. the Speaker .....	1171	Senator Graham .....		1175
<hr/>		Senator Taylor .....		1175
<b>ROUTINE PROCEEDINGS</b>		<b>Canada Foundation for Sustainable Development</b>		
<b>Immigration and Refugee Protection Bill (Bill C-11)</b>		<b>Technology Bill (Bill C-4)</b>		
First Reading. ....	1171	Third Reading .....		1178
<b>Criminal Code (Bill C-24)</b>		<b>Appropriation Bill No. 2, 2001-02 (Bill C-29)</b>		
Bill to Amend—First Reading. ....	1171	Second Reading, Senator Murray .....		1179
<b>Canadian Security Intelligence Service</b>		Senator Bolduc .....		1179
Notice of Inquiry, Senator Prud'homme .....	1171	Senator Tunney .....		1180
<b>Nomination of Honorary Citizens</b>		Senator Banks .....		1180
Notice of Inquiry, Senator Prud'homme .....	1172	Senator Lawson .....		1180
<b>Canada-Taiwan Parliamentary Friendship Group</b>		Third Reading. ....		1180
Notice of Inquiry, Senator Milne .....	1172	Senator Finnerty .....		1180
<b>Delayed Answers to Oral Questions</b>		<b>Royal Assent</b>		
Senator Robichaud .....	1172	Notice. ....		1181
<b>National Defence</b>		<b>Federal Nominations Bill (Bill S-20)</b>		
Replacement of Sea King Helicopters—Availability of Interface		Second Reading—Speaker's Statement.		
Control Specifications—Possible Withdrawal of		The Hon. the Speaker .....		1181
Eurocopter From Competition.		<b>Illegal Drugs</b>		
Question by Senator Forrestall.		Budget—Report of Special Senate Committee Adopted.		
Senator Robichaud (Delayed Answer) .....	1172	Senator Nolin .....		1181
Replacement of Sea King Helicopters—Possible Change to Basic		<b>Foreign Affairs Report Entitled "The New NATO and</b>		
Vehicle Requirements—Effect on Involvement of Eurocopter.		<b>the Evolution of Peacekeeping: Implications for Canada"</b>		
Question by Senator Forrestall.		Inquiry—Debate Continued, Senator Cools .....		1182
Senator Robichaud (Delayed Answer) .....	1172	<b>Intellectual Property Rights Over Patented Medicines</b>		
Replacement of Sea King Helicopters—Location of Eurocopter		Notice of Inquiry, Senator Finestone .....		1182
Business Operations.		<b>Afghanistan</b>		
Question by Senator Kinsella.		Decree Requiring Non-Muslims to Wear Special		
Senator Robichaud (Delayed Answer) .....	1172	Identification—Inquiry—Debate Adjourned.		1182
Replacement of Sea King Helicopters—Possible Change to Basic		Senator Finestone .....		1183
Vehicle Requirements—Effect on Involvement of Eurocopter		Senator Prud'homme .....		
Question by Senator Carney.		<b>Mr. Faisal Hussein</b>		
Senator Robichaud (Delayed Answer) .....	1172	Tribute—Inquiry—Debate Adjourned, Senator Bané .....		1184
		Senator De Bané .....		1184



**Tribute to Pages on Departure**

The Hon. the Speaker ..... 1187

**Social Affairs, Science and Technology**

Committee Authorized to Extend Date of Final Report  
on Study of Developments in the Field of Personal Information  
Protection and Electronic Documents. .... 1187

Senator Robichaud ..... 1187

**Nelson Mandela**

Motion to Declare Honorary Citizen of Canada. .... 1187

Senator Cools ..... 1188

Senator Kinsella ..... 1189

Senator Prud'homme ..... 1191

Senator Poy ..... 1191

**Visitors in the Gallery**

The Hon. the Speaker ..... 1191

**Foundation to Fund Sustainable Development Technology**

Resolutions of Standing Committees of Energy, the Environment and  
Natural Resources and National Finance—Motion to Forward  
to Commons—Debate Adjourned. Senator DeWare ..... 1192

Senator Lynch-Staunton ..... 1192

**Adjournment**

Senator Robichaud ..... 1193

**Royal Assent**

Senator Rompkey ..... 1194

Senator DeWare ..... 1194

**Appendix** ..... 1195

**Progress of Legislation** ..... i





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CANADA

# Debates of the Senate

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• 37th PARLIAMENT •

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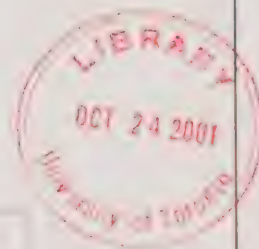
OFFICIAL REPORT  
(HANSARD)

**Tuesday, September 18, 2001**

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THE HONOURABLE DAN HAYS  
SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Tuesday, September 18, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

[Translation]

Prayers.

Senator Laurier LaPierre has been celebrated for his "passionate Canadian nationalism" and for his thorough knowledge of issues regarding Quebec.

### NEW SENATORS

[English]

**The Hon. the Speaker:** Honourable senators, I have the honour to inform the Senate that the Clerk has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Laurier L. LaPierre  
Viola Léger  
Mobina S. B. Jaffer  
Jean Lapointe

Over the span of his career, Senator LaPierre has been a constant presence in the Canadian media working as a journalist, author, editor and commentator. Senator LaPierre earned a doctorate from the University of Toronto and was a faculty member with several other universities across our country. He has served as chair of Telefilm Canada and as host of the electronic town hall meetings for the Citizens' Forum on Canada's Future.

### INTRODUCTION

Senator LaPierre is even now in the Canadian media, where he can be seen in discussion with public figures on his own show, on the CBC's reprise of *This Hour Has Seven Days*, and at the Ottawa International Writers' Festival. In 1994, Senator LaPierre received the Order of Canada for his achievements and unconditional dedication to our country.

**The Hon. the Speaker** having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the oath prescribed by law, which was administered by the Clerk; and were seated:

**Hon. Laurier L. LaPierre**, of Ottawa, Ontario, introduced between Hon. Sharon Carstairs and Hon. Jean-Robert Gauthier.

**Hon. Viola Léger**, of Moncton, New Brunswick, introduced between Hon. Sharon Carstairs and Hon. Rose-Marie Losier-Cool.

**Hon. Mobina S. B. Jaffer**, of North Vancouver, British Columbia, introduced between Hon. Sharon Carstairs and Hon. Ross Fitzpatrick.

**Hon. Jean Lapointe**, of Magog, Quebec, introduced between Hon. Sharon Carstairs and Hon. Raymond C. Setlakwe.

Senator Viola Léger has made a great contribution to Canadian and Acadian culture. Through her many acclaimed performances, particularly in the leading role of Antonine Maillet's *La Sangouine*, a role with which she is closely associated here in Canada and abroad. In 1985, Senator Léger founded her own theatrical company to educate a new generation of actors in Canada.

[Translation]

Senator Léger has been awarded several of the most coveted prizes and honours in the field of culture. She has received, among others, the Chevalier de l'Ordre français des Arts et des Lettres.

[English]

Senator Léger was made an Officer of the Order of Canada in 1989.

**The Hon. the Speaker** informed the Senate that each of the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

• (1430)

Senator Mobina Jaffer is a practising barrister and solicitor from British Columbia and has been a Queen's Counsel since 1998. She has served on the Trial Lawyers Association of both British Columbia and of America. Senator Jaffer has offered her legal expertise to gender and multicultural causes too numerous to list, including working with the Immigration and Refugee Board, serving as President of the YWCA of Canada and serving as founding President of Immigration and Visible Minority Women of British Columbia and the Yukon.

[Translation]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I rise today to welcome four new colleagues to the Senate. I feel honoured to introduce our new senators, all of whom have particular knowledge, talents and expertise to bring to our chamber.

Senator Mobina Jaffer has received numerous awards for her professional and volunteer activities.

[English]

Senator Jaffer has been active politically as well as socially, and she currently serves as President of the National Women's Commission of the Liberal Party of Canada.

[Translation]

Senator Jean Lapointe is a Quebec artist and variety entertainer with an international reputation.

[English]

His performances have earned him the admiration of audiences and critics alike. Senator Lapointe has also worked as a community and social activist, establishing the Jean Lapointe Foundation and youth addiction centres to help alcoholic and other addicted members of society become rehabilitated.

Senator Lapointe is the recipient of two honorary doctorates from Quebec universities and was named "Grand Québécois de l'année" in 1995. Senator Lapointe became an Officer of the Order of Canada in 1984 for his commitment to artistic and social causes in Canada. We are, honourable senators, greatly privileged to have such distinguished new colleagues as members of this chamber.

**Hon. Senators:** Hear, hear!

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I am delighted to join with the Leader of the Government in the Senate in expressing the warmest of congratulations and welcomes to our new colleagues. As Senator Carstairs so succinctly outlined, each new senator brings to this place talents and experience that are as diverse as they are impressive. May these also benefit the parliamentary process.

The Senate is, first and foremost, an essential partner and participant in the evolution of federal legislation. Adjustment, even by those who come here with some political experience, is not always easy, and it certainly does not come quickly. May I hasten to reassure our new senators that whatever our differences, the tradition of this place is to work more together than separately. May this alone give them confidence as they embark on what will no doubt be a most rewarding journey.

[Translation]

Allow me, on a personal note, to acknowledge Senator Lapointe, from my home province. Not only is he one of Quebec's most highly regarded personalities, but he has also, like myself, chosen to live in the Eastern Townships, more specifically in the area of Magog. Such perspicacity is a good sign for all Canadians.

• (1440)

[English]

Once again, congratulations to the new arrivals and all best wishes as they assume their new responsibilities.

**Hon. Senators:** Hear, hear!

**Hon. Marcel Prud'homme:** Honourable senators, I should like to bring to the attention of the Senate that we have made history today. By welcoming Madam Mobina Jaffer, we have received in the Senate, with great pride, as we have done for the other new senators, the first senator of Muslim faith who has sworn allegiance to the Queen on the holy Koran. I would never forgive myself if I did not mention this. I know that I am not embarrassing her or her family by mentioning this highly important historical event.

**Hon. Senators:** Hear, hear!

## UNITED STATES

### TERRORIST ATTACKS OF SEPTEMBER 11, 2001— MOTION OF CONDOLENCES AND SUPPORT ADOPTED

Leave having been given to proceed to Government Notices of Motions:

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move, seconded by the Honourable Senator Lynch-Staunton:

That the Senate express its sorrow and horror at the senseless and vicious attack on the United States of America on September 11, 2001;

That it express its heartfelt condolences to the families of the victims and to the American people; and

That it reaffirm its commitment to the humane values of free and democratic society and its determination to bring to justice the perpetrators of this attack on these values and to defend civilization from any future terrorist attacks.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

I know that a number of senators wish to speak, and I will call first on the Honourable Senator Carstairs.

[Translation]

**The Hon. the Speaker:** Given the wording of the motion, I propose that the honourable senators observe a minute of silence.

*Honourable senators then stood in silent tribute.*

[English]

**Senator Carstairs:** Honourable senators, last Tuesday morning, Canadians stood transfixed by the sights that unfolded on their television screens. At first, we thought, or perhaps we hoped, that it was simply an accident when the first plane crashed into the World Trade Center. However, when the second plane hit the second tower, we knew that it was no accident.



We then heard of the strike on the American Pentagon. We then heard of a flight that went into a field in Pennsylvania.

We watched in horror and disbelief at the violence perpetrated on the United States of America. We were struck with grief at the loss of life that resulted from such thorough devastation.

Honourable senators, we are all deeply shaken when we look back on the abhorrent acts that took place that day. We now know, if we did not know before, that the world around us can change dramatically within the space of a very short time.

Our world may be forever coloured by recent events. We make discoveries about ourselves, about the way we view others and about the way we view other nations that are sometimes encouraging, and sometimes deeply disturbing. We see, but with more immediacy, how hatred against any nation or any person is not only grossly inappropriate, but breeds a cycle of hatred that is never-ending.

We saw on our national day of mourning last week that Canadians are responsive and compassionate people. One hundred thousand people gathered on Parliament Hill last Friday, paying their respects and offering their sympathy to the Ambassador of the United States and to all Americans.

[Translation]

Canadians now find themselves with the difficult and delicate task ahead of them of deciding how to respond to the events that left such a heavy mark on people throughout the world.

[English]

Canada and the United States share a special relationship that transcends national boundaries. We feel very close to our American neighbours, some of whom are family and many of whom are friends. None of us has to look far to find someone that we know who has lived in, worked in or visited the same places we saw disintegrating before our eyes.

Many Canadians and citizens of other countries lost their lives that day. While this tragedy took place on American soil, we know that this was also an assault against democracy itself. Many world leaders, including our Prime Minister, have declared that the family of democratic nations will stand undeterred beside our American ally.

We have pledged our unambiguous support to assist our American neighbours in a worldwide campaign against terrorism. In the words of our Prime Minister, "The world has been attacked. The world must respond."

We must respond as one democratic union. We must be sure that our response is measured, controlled, effective and just. We must not be swayed by rhetoric, but guided by righteousness. Our resolve must be unshakable and not diminish with time until we overcome the threat that we are now facing. We will need to find ways to build peace through non-proliferation and other strategic

defence initiatives, while striking out against international crime and terrorism.

We must increase our vigilance and take steps to increase security within our own borders. We will have to discourage the promotion of violence as a solution to the failure of diplomacy, but we will have to ensure also that terrorism and its horrendous consequences will not spread across the world unchecked. We will have to strike a balance between using force and using dialogue in order that justice will prevail.

Together with our government allies around the world, we face many difficult decisions in the days, months and years ahead. Finding our way through the maze of terrorist organizations will be difficult enough without the countless moral dilemmas that we will surely need to confront. We must give our full support and understanding to leaders around the world who are engaged in this war against terrorism. The global community has made mistakes in the past and mistakes may be made in the future, but we must have confidence that democratic leaders are giving full consideration to each step they take, and that each initiative will be guided by our shared democratic values.

● (1450)

There were many acts of heroism, both large and small, following the disasters endured by the United States that day. We will never know all the names of these heroes; people who assisted fellow workers encumbered by wheelchairs to escape a burning building, the many rescue workers and volunteers, the airline passengers who held fast against terrorists' demands at the certain cost of their own lives. Their heroism is what put them at greatest risk. These are the very people no society can afford to lose. However, we also understand that while these actions are rare and heroic they are nonetheless not uncommon.

[Translation]

Many Canadians lined up to donate blood, organized transportation, and offered accommodations, meals and medical assistance to the victims of this terrible tragedy. We are proud of the efforts they made to help our friends to the South during these trying days.

[English]

We have seen great heroism as countless Americans come to the rescue of their fellow citizens. Many more stories of heroism will be uncovered over the next few weeks. Because of these incalculable acts of bravery and mercy, we know that it is goodness that is common and evil that is uncommon.

We offer our continued sympathies and our prayers to all of those who lost their lives that day, from whatever nation, and especially to those families who have suffered directly from this heartbreaking tragedy. While we were observing a moment of silence, honourable senators, a young child cried. Perhaps she cried because of the solemnity of the occasion and the fact that we had all gone silent. It is for that child and for the other children of the world that we must do better than we have done.



**Hon. Senators:** Hear, hear!

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I want to begin by thanking the Leader of the Government in the Senate for bringing forward this motion, which I agreed to second without hesitation.

What we witnessed last week, and have been suffering since, is the cold, cruel, brutal reality of life and death at the beginning of this century. We grieve for those who have lost loved ones in this senseless act, and we grieve for those who are the first casualties of the first war of the new century.

Honourable senators, we must do more than grieve. It is time for all legislators in Canada to unite in a non-partisan display of support for our neighbour to the south. The values attacked a week ago are values we share with the United States: freedom, democracy, equality; all exercised under the rule of law. This shared heritage inextricably entwines us together with all those in the world who treasure those ideals to fight for them and win against those who would destroy them.

In the United States Congress, a legislator can exercise a freedom of action free from party discipline that is so prevalent in our system. Therefore, one can only be touched by the overwhelming bi-partisan nature of the support given to the executive by all sides in both houses in Washington. Here, we must have the same political unity to demonstrate our unqualified support for the United States as it embarks on a major campaign against the tyranny of the terrorist; hopefully, with our unconditional help, whenever it is needed, and that of all freedom loving nations in the world.

Not only must we pass resolutions of support, but the time has come for us to demonstrate our support in a real and tangible fashion. In times of crisis, friends come closer together. Friends support each other. Whatever our cultural naysayers may say, we as Canadians have no closer friends in this world than our neighbours to the south. It is not without reason that the words inscribed on the American and Canadian sides of the Peace Arch, which spans the international boundary between the State of Washington and British Columbia states "Children of a Common Mother — Brethren Dwelling Together in Unity."

Our close relationship was again emphasized by the United States Ambassador to Canada, Paul Cellucci, both in his address to the thousands assembled on Parliament Hill on Friday and in an open letter the following day in many newspapers. If we had any doubt of our place in the hearts and minds of Americans, Ambassador Cellucci has laid that permanently to rest. In short, he described the outpouring of help from Canadians to Americans in need as "images of a generous spirit, of unbounded kindness, and of the best of what it is to be human. These images capture the essence of Canada."

I, too, want to say how proud I am of all Canadians who reacted so quickly and positively to help in any way they could to aid those who are direct or indirect victims of the terrorist

atrocities. Having spent a short period of time this past summer in Newfoundland and Nova Scotia, I can attest firsthand to Eastern hospitality. People from all over the world stranded in this part of Canada and elsewhere would know no better treatment than that offered by warm, caring Canadians who wanted to help friends in a time of crisis.

Honourable senators, we are now a week away from the unspeakable acts that killed and injured thousands of Americans, an untold number of Canadians and many people from all over the globe. It is now time for us to reflect on what went wrong, to learn from it and to act accordingly. We must also look ahead to determine what we are to do to cope and succeed in this new world that faces us.

We must recognize our potential vulnerability. If we ever did, we certainly no longer live in the "fireproof house" — words used by Senator Raoul Dandurand in 1924 to describe how our geography protected us from attack. We are all vulnerable. The fact that we could be victims of such an attack was prominently noted in the 1999 report of the Senate Special Committee on Security and Intelligence, chaired by Senator William Kelly, which states at page 5:

Canada remains, however, a "venue of opportunity" for terrorist groups: a place where they may raise funds, purchase arms and conduct other activities to support their organizations and their terrorist activities elsewhere. Most of the major international terrorist organizations have a presence in Canada. Our geographic location also makes Canada a favorite conduit for terrorists wishing to enter the United States, which remains the principal target for terrorist attacks worldwide.

The committee went on to recommend changes to airport security and our immigration practices, which would aid in the fight against terrorism.

The CSIS annual report for the year 2000, tabled earlier this year, also clearly predicts what it sees as the future — a future that has now become a reality. It says:

Terrorism in the years ahead is expected to become more violent, indiscriminate, and unpredictable than in recent years....There will likely be terrorist attacks whose sole aim would be to insight terror itself....Canadians now more than ever, are potential victims and Canada the potential venue for terrorist attacks.

While this debate is perhaps not the time to address it in detail, we as legislators will need to review the reduced capacity of the Canadians Armed Forces, and determine what role, if any, they are now capable of playing in the defence of this country or to help the United States in the fight against the universal threat of terrorism. We should also address our minds to changes in our immigration policies and steps we should take to implement the more appropriate recommendations in the Senate security report.

However, these are issues for another day, when I hope that the government will allow us, as representatives of the people of Canada in both chambers, to participate in the review of our preparedness. This is the overarching role of Parliament as representative of the people of Canada. Our duty, Canada's duty today, is to stand by its closest friend and neighbour in its hour of need. Our duty, borne out of love and friendship and mutual respect, is to answer the call for help. We should be assessing our capabilities and offering advice based on years of being a world leader in the field of peacekeeping and peace building, and also as one who has never hesitated to answer the call, as demonstrated too eloquently by the thousands of Canadian war graves across the world.

• (1500)

We should be in communication with the United States administration, offering help and advice on the options of dealing with the NATO Alliance, under Article 5, and perhaps putting the entire issue of terrorism before the obvious world body, the United Nations. There are options that, with our experience, we should be helping the United States explore.

We are all victims of the acts of terrorists. However, we owe it to those who died, not to change our society, but to maintain the fundamental freedoms they enjoyed until death. In these deaths and this destruction, we must seek the rekindling of our determination to live in a free, democratic and open society.

On a personal note, and I speak as one who is notorious for not wearing his heart on his sleeve, I live only five miles in a direct line from the Canada-U.S. border. I cross it constantly. I did my university education in the United States. I am a great admirer of the American political system, with all its flaws and excesses. In particular, I cannot think of another country, wars and all, which I would want to be mine as a neighbour than the United States. Their pain is my pain.

Honourable senators, terrorism knows no frontiers in its dastardly attacks on our fundamental values. That is why we must declare, without fear of tarnishing our own identity, that today we are all Americans.

**Hon. Senators:** Hear, hear!

**Hon. B. Alasdair Graham:** Honourable senators, in the awful hours of one of the darkest weeks in the history of mankind, we now enter the numbing reality of a world turned upside down. All around us grows the agonizing certainty that all certainty is gone. There is a terrible sadness coincident with rage and the open wounds of a great horror. There is the steely strength, resolve and noble courage of everyday heroes who have given us faith in the remarkable endurance of the human spirit. We have wept, in part because of the callous tragedy of their loss, in part because of the calm resolution so many showed in the face of the death of all those lost citizens of the free nation with whom we have shared a partnership without equal in the history of nations.

When the first Governor of the Commonwealth of Massachusetts, Jonathan Winthrop, spoke of the momentous

mission of his people in the new world in the early 17th century, he envisaged building a city on a hill, free from the intolerance of the old world. That city, which would become the United States of America, would be born in revolution under the banner of life, liberty and happiness.

The music is now gone from lower Manhattan, one of the strongest symbols of the power and energy of the land of the free and the home of the brave. However, I believe the resilience of the vision that has inspired the great republic, one of the greatest countries in the history of mankind, is strong and enduring. The American people will keep the faith and the lights will go back on in the big city.

The world will watch as Americans, as Canadians and as all free and democratic societies across this planet leave an old world behind, standing shoulder to shoulder in a struggle against a remorseless evil which knows no shred of humanity and which threatens not only the generations of the present but our children's children and those beyond.

Honourable senators, the motion before us expresses our heartfelt condolences to the families of the victims and the American people. We reaffirm our commitment to the human values of free and democratic societies. These simple words have enormous implications. For in that process of reaffirmation, and with the war on terrorism in awful proximity, we struggle as a free people to re-examine what we are, to speak to the values we must fight to protect.

In so doing, we fire the first shot against terrorism. In so doing, Canadians will bolster the resolve of frightened people across the globe, the resolve of all those new democracies that stand in the early dawn of freedom. Perhaps more importantly, we serve to strengthen the resolve of the great republic to the south to move past the rage and horror and the understandable urge for vengeance. We must help to ferry them to a better place.

Over the centuries, in spite of our differences, Canadians and Americans have built two blessed and prosperous nations. Our ancestors built nations with parallel commitments to freedom, equality and respect for the rule of law, to democracy and human rights, to a world where children have the right to grow up equal.

We have fought side by side and shoulder to shoulder in the air, on the land and at sea. We helped to open a window of freedom over Europe. We built an alliance that gave hope to millions during the darkest hours of the Cold War. We stood in San Francisco together in the early days of the conception of the United Nations. We built a continental air defence system. We opened the skies across the 49th parallel. Together we have shared a continent.

Honourable senators, we have lost 75 Canadians in the rubble of what was the World Trade Center. Many countries have lost their citizens in these once shining cathedrals of Western progress. The motion before us expresses our determination to bring the perpetrators to justice and to defend civilization against these enemies of the human race, these enemies of humanity.



We ask ourselves as a people: As Canadians, what can we do? Our generous and freedom-loving people are moved as never before by the suffering of our great friend and ally.

Honourable senators, I believe we have much to offer in the struggle against the moral, intellectual and emotional depravity of terrorism. Canada is a country that is loved and respected around the world. We possess a formidable arsenal in the trust and international experience we have acquired in a world turned upside down. We now face the toughest test since World War II. We must make it very clear what we stand for to all those who despise our values. We must resist the racism and intolerance that are the by-products of fear and anger.

Honourable senators, we must talk to our children and we must teach our children well. We must now exercise our wellspring of international influence as never before. With all of our diplomatic skills, with all the trust, with all the confidence inspired by our flag. We must help the Americans to form a tough, global coalition against terror and the rat holes in which these depraved individuals breed because these are enemies of the human race. No nation, no people, no community is free from their remorseless hatred, from the glory they take in the murder of children.

Honourable senators, we must square the circle. We must help, but we must remain Canadian. We must provide solace and support at all levels, but we can never forego who we are. In many ways, we must follow in the steps of heroes from the past, as Richard Gwyn wrote so poignantly a few days ago. We must fight together, if the logic and the evidence appears overwhelming, and we must pray together. Canada must remain steadfastly at the side of the United States in the bitter aftermath of tragedy.

Indeed, honourable senators, while military action may be inevitable in the days to come, we must counsel against misdirected air attacks which could kill innocent civilians in the thousands, which will fuel international anger and cancel out the present overwhelming sympathy we have seen for the United States so far in poignant and moving demonstrations of the solidarity of mankind in capitals across the world.

We must understand that if the United States retreats into isolationism and an extreme thirst for military action, we all lose. Canadians will face unforgiving challenges to our sovereignty, both foreign and domestic. Yes, we must try to square the circle, remain focused on our interests and principles and try to counsel restraint, if such counsel is needed, in the long anguished days and nights that lie ahead.

Steadfastness in the face of terrorism is enormously difficult for democratic governments. Historically, terrorists across countries and centuries have used their deadly tactics to provoke their enemy to brutality. The awful consequences of the cold fury of military retaliation reach far beyond the deaths of thousands, perhaps hundreds of thousands, of innocent people. They reach to the very foundations of Western civilization. If the values of

tolerance and respect for human rights and minorities, if the values of freedom and compassion begin to weaken in the Western democracies, if our convictions wane, the future of democracy all across this planet will shatter and crumble, and the central objective of the murderers who celebrate the death of innocents will be accomplished.

• (15:10)

We must remember, honourable senators, that these enemies of the human race are the enemies of all mankind. They are the enemies of Muslims and Christians and Jews. They are the enemies of Americans and Indonesians and Jordanians.

Perhaps it is no longer good enough for the leaders of the free world to speak only to their own nationals. In this time of crisis, shock and challenges, which appear almost overwhelming, our leaders should speak to their fellow world citizens, to the fellow members of our global civilization.

In the meantime, the free democracies of the planet must exert a coordinated and concentrated international effort to extirpate and destroy this evil. The United States will lead this effort and Canada must do everything possible to assist it. We must pray that President Bush will be steadfast, courageous and enormously disciplined, resisting the short-term political temptations of polls that show a grieving people desperate for revenge, desperate for some kind of immediate retribution, understandable in the overwhelming emotions of this terrible time.

President Bush, Prime Minister Chrétien and other world leaders must show a moral authority that exerts leadership on many fronts: on the war against increasing disparities between rich and poor; on the war against oppression and greed and state-sponsored cruelty, as well as in the twilight world of intelligence-gathering and counterterrorism.

Yes, honourable senators, Canada must do everything possible to assist the great republic, our friend and neighbour, in many ways our family, as the Prime Minister has said — everything except surrender the most important currency that we have in this country and around the world, and that is the heart and the mind and the soul of Canada.

To refer to the wonderful words of Elie Wiesel, we must remain a nation that will continue to place human rights at the centre of its universe, because it is at that centre where we will find our strength. It is at that centre where the values of the generations yet to come will be forged and shaped. It is at that centre where we will teach our children that racism and intolerance and hatred are the enemies of a free society.

It is at that centre where Canadians will find the will and the determination to follow in the footsteps of our heroes of the past. It is at the centre of the universe, honourable senators, where a better world will be constructed and an old world left behind.

**Hon. Senators:** Hear, hear!



**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise to lend my unequivocal support to the motion before this house.

Today, we are challenged by the evil events of September 11 and we are challenged to understand the unintelligible. We are challenged to maintain our faith in the goodness of the human person. We are challenged to fortify our loyalty to human society. I am convinced that we shall meet these challenges and that good will triumph over evil.

Our work, honourable senators, in Canada and around the world, must use as a solid and reliable beacon the non-negotiable principle of the inherent dignity of all members of the human family. We must speak anew of the order that should exist between peoples. Any human society, if it is to be well-ordered and productive, must lay down as a foundation this principle: namely, that every human being is a person with rights and duties by virtue of their humanity.

The events of last week might lead some to abandon the international human rights regime or abandon international order that the world seeks. Some might argue that there is not universal acceptance for the development of world order. Others note the nature of the exclusion of some from the distribution of the world's goods. Yet others observe that there appears to exist today a dichotomy in the world, a world that is at once powerful and weak; capable of doing what is noble and what is base; disposed to freedom and slavery, progress and decline, solidarity and hatred.

In the global society of today, we can be conscious that the forces unleashed in the world are in humanity's own hands and that it is up to us to control them or be enslaved by them. Herein lies the contemporary challenge. As suggested by Reinhold Niebuhr, in his book, *The Children of Light and the Children of Darkness*, there are those who are so convinced of the correctness of their "good position" that they do not recognize the existence or reality of the danger of others, those who would be dismissed as of the "bad" position, the "evil." Perhaps by the intoxication of the perceived "righteous way," we fail to understand or use the language of others.

Honourable senators, I accept the proposition of those who see the events of September 11 as an awakening from a holiday from history. It would be better, in my view, to accept that the dialectic of history has not stopped; rather, it continues. We must learn from all the lessons of history as we make decisions in this Parliament and elsewhere that will shape the future of the world.

In supporting the motion before this honourable house, we wish to express our solidarity with our friends in the great republic to the south, as described by my colleague Senator Graham. We extend our sympathy to the victims of this horrific tragedy. However, I argue, honourable senators, that we as Canadians must come to the table of the contemporary world to be there shoulder to shoulder with all freedom-loving people, and be prepared to lend both material and thoughtful concrete support in the resolve to rid the world of the evil of terrorism.

Let there be no doubt, honourable senators, that Canada and Canadians have a unique Canadian contribution to make, contributions based on our Canadian values, contributions based on our Canadian fortitude.

• (1520)

The Senate of Canada has an opportunity to undertake some immediate concrete steps. The first such concrete step could be our very careful examination of Bill C-11, which deals with immigration to Canada. A second area for concrete action by the Senate of Canada could be a pre-study of Bill C-16. A pre-study of Bill C-16 would allow honourable senators to determine how to deal with the matter of fundraising in our country by organizations that support directly or indirectly terrorist groups. It is not necessary, honourable senators, for this house to wait until the other place concludes its examination of Bill C-16. We ought, I submit, to subject Bill C-16 to examination forthwith by this honourable house.

Honourable senators, other concrete steps to be taken by the Senate are in the field of public policy — for example, public policy relating to our preparedness for any escalation of terrorist activities in biological, nuclear or ecological spheres.

A further concrete role for the Senate of Canada would be to ensure that Canadian values of freedom, responsible citizenship and human rights continue to inform future developments.

Let me remind honourable senators, all of us, of the provisions of article 4 of the International Covenant on Civil and Political Rights. Article 4 reads, in part, as follows:

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties

— meaning Canada —

may take measures derogating from their obligations...

— to respect human rights —

provided that such measures...do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

I remind honourable senators of this provision, for we observe in the television media fora and in the written media suggestions made from certain quarters to allow the state extraordinary powers, powers that might contravene well-accepted human rights.

I remind honourable senators that in that covenant itself there is no derogation allowed from a number of rights. There is no derogation from the right to respect life. Therefore, in those quarters where one sees the argument advanced to give extraordinary powers to agents of the state for extra judicial killings, there is no derogation from the right to life, honourable

senators. This area, it seems to me, is one in which Canada can make a major contribution in this important struggle against terrorism — that we do it right and that we do it in a manner that is informed by our values.

We as Canadians must be vigilant so that the acts of racial profiling, for example, do not become a way of life. We must build, rather, on the wealth of understanding and insight of all communities of Canadians. We have learned, honourable senators, the lesson of the Japanese-Canadian experience. Canada must continue and strengthen its involvement in multilateral work, strengthen its contribution to economic, social and cultural development in those areas of the world that so desperately need our assistance.

While our analysis of the tragedy of last week is unequivocal in the rejection of this quintessential act of dehumanization — and we can understand the anger and the call for retaliation — it might very well be Canada's role, honourable senators, to encourage a narrowing of the focus as the response is developed. The perpetrators must be identified and sanctioned, and that no doubt will best occur by a global multilateral response.

We ought not lose the opportunity to examine, however, some of the underlying issues. Some will claim that international terrorism has nothing to do with the way that we learn to close our ears when told that one out of every three people on this planet does not have enough food. The larger picture must be the informed backdrop over the coming days, and the Senate of Canada is well positioned to help in this understanding.

I shall conclude, honourable senators, with a footnote. At the time of this tragedy, I was a passenger in a Boeing 767 at 39,000 feet, flying west. I would have been four hours in the air, having proceeded from New Brunswick that Tuesday morning. Our plane was a little west of Winnipeg. I was en route to Edmonton, to join my colleagues at our national caucus meeting. Our pilot received the order to go to the nearest airport, which was Winnipeg. I want to state in this house — we were one of the latter planes to land — how well prepared the emergency measures people were in Winnipeg and how efficient and courteous they were. While I did not have to use a cot in the armouries, on the other hand, I did not have the opportunity to lodge in one of the fine Winnipeg hotels. Let me tell you about Winnipeg West and a very fine motel called the Super 8. I commend it to you if you are looking for a place to stay in Winnipeg.

**Hon. Joyce Fairbairn:** Honourable senators, I, too, wish to join colleagues in this house in support of this motion. The last seven days have shown those of us who share the borders of North America the fragility of the peace and security we have taken for granted in the history of the past several decades. Now, how very hard it is as individuals and as nations to adapt and accept the viciousness and terror of an attack on our own soil. War has always been something that was fought far away, and we in Canada have sent young men and women in generous numbers

to join in foreign conflicts in the name of world peace and humanity.

The terrorist attack on September 11, 2001, in New York, at the Pentagon and in a field in Pennsylvania, an attack that has shaken every corner of our world, has brought with it not just devastating tragedy to those victims, innocent individuals of all ages who were just starting off their day of work or flying to another destination never to return, but also has revealed a shining, overwhelming spirit of courage, love and dedication from all of those who have offered everything they possess, including the hundreds of police and firefighters who gave their very lives in a heroic effort to rescue or recover the victims in Manhattan or Washington D.C. A whole nation has shared prayers and anguish with those who have been left behind to pick up the pieces, and we Canadians have joined in those prayers.

As the Prime Minister told American Ambassador Paul Cellucci and some 100,000 citizens at the extraordinary memorial gathering on Parliament Hill last Friday, Canadians are not silent friends, not in terms of grief, nor generosity, nor courage. It was a message for the world to hear. Some of our own citizens are mourning family or friends lost in the two World Trade Center towers. Individual Canadians immediately began lining up to give blood. Our hospitals put out a call to help burn victims, medical professionals headed for New York, and centres large and small across this country opened their doors to all those thousands of travellers whose aircraft was redirected to land at Canadian airports. Our anthems were sung with high emotion, as they are sung in my little city of Lethbridge in southwestern Alberta, less than an hour away from Montana. We sing those anthems together regularly, not just on occasions like this. They were being sung again here on Parliament Hill, while our two flags waved together with pride. Our children tried to express their troubled feelings by writing letters and drawing pictures. Throughout the television coverage, we shared all of this together — not only as friends but also as a true family, joined because of our freedoms and our values and the closeness of our democracies. We shared with them as we always proudly celebrate the longest undefended border in the world.

• (1530)

Honourable senators, the Prime Minister has said that we will walk together with our American friends every step of the way. The attack on them has been seen as an attack on us, as well as all those countries of the world that value human life and civil liberties.

Our role at this moment is not clear, but our resolve is assured: to assist to the very best of our capacity in a campaign where the enemy is not clearly defined and is largely invisible. The United States and the allies it draws together in a coalition to find and bring to justice their attackers are now forced to create a new plan of offence, as well as to develop a defence quite different from the one that was shattered with such diabolically clever simplicity a week ago today.



Amid the instant debate on military retribution, it was encouraging to hear President Bush, angry though he is, noting that the enemy is not easily found and that the battle to hunt and dismantle an underground terrorist network will involve the work of months and, perhaps, years. Bombs and missiles cannot be guaranteed to hit the mark. We must go a lot further than that.

Honourable senators, this becomes a battle of the mind. It is a master puzzle that requires an exquisite mix of intelligence, of patience, of wisdom and of instinct regarding how to get into the mind of those who, in the end, hold their personal life totally dispensable in their effort to further their cause of hatred and destruction. As facts become available, the most chilling reality is the degree to which these terrorists were living seemingly regular lives within American society.

Honourable senators, as others have suggested, these terrorists may well be living amongst us as well. Historically, that is not new, but somehow other imperatives of the new technology of open warfare have blunted our collective reasoning on the potential of hidden combat and all the forms that it might take. What an enemy that is, and what a massive effort of trust and cooperation determined and caring nations must put forward to repair that loss of faith and confidence that has affected the daily life of the greatest power of the world, as well as all of us.

Honourable senators, we do not know whether there will be a military role for Canada. If called to assist, our troops will be ready to do a job. In the heat of rhetoric in this debate and elsewhere in the country, we should not diminish in any way the excellence, capacity and will of the Canadian Armed Forces.

However, in the circumstances of secret warfare, perhaps we have another special role to play. We need only look at our history as a small nation which, through our great diplomat and former Prime Minister Lester B. Pearson, has managed to entrench the notion of peacekeeping as a valid and viable interruption of war. Canada is known and respected as a conciliator and a facilitator among nations, a reputation we have built through our active membership and participation in the key alliances of our world order. We do not ever really close diplomatic doors. We have gained a reputation, if not notoriety, as an informed messenger who can be trusted.

Always, security and intelligence are just as strong as combined resources can make them, be they human or technological. We will bolster our efforts in Canada, but we must also be able to count on the willingness of our allies to share information with us. That collegiality and trust will be a critical weapon in the days and years ahead.

In addition, our government would be well advised to revisit the testimony and recommendations that were produced by the Senate Special Committees on Terrorism and Public Safety in recent years. Those warning bells were sounded loud and clear.

The comfort of the assumption of security in a peaceful nation was shattered a week ago. The unthinkable happened. It could well happen again.

However, honourable senators, I ask you the following: Was it really unthinkable? We live in a haven of prosperity here in North America, as do so many of our closest allies. Just as we do not have a long history of wars and oppression, nor have we endured a history of poverty and illness and deprivation, which breeds despair and fosters tyranny.

We live in a system based on the rule of law and open elections. If we do not like our leaders, we toss them out at the ballot box and not through revolutions. We have a respected Constitution and a Charter of Rights and Freedoms that millions in this world cannot even dream about. Religion may foster disagreements, but we worship in peace.

What has happened in one short week shocks us to the very core because we cannot really understand it. We cannot fathom the passion and hate that drives those who see others like ourselves living an existence of endless opportunity, in their eyes, while they live in a potent clash of politics, religion, race and poverty amid a long, long history of wars. Millions of people on the ground can barely feed a family let alone guarantee an education or a future for their children.

Yes, honourable senators, we have major challenges in our country to help and to protect those in need, and that is a priority for all of our governments now and in the future. However, we simply cannot close our minds to the causes that help sow the seeds of despair and anger and terrorism abroad. We do have the tools to fight a humanitarian cause with much greater vigour than our country has yet ever committed, but that is tomorrow's battle, a battle that we ignore at our peril. Today, our hearts and our minds are with those mothers and fathers, husbands and wives, children and families who are torn apart by the loss of those who have been killed in the United States of America, our friend, our neighbour, our family.

• (1540)

The Americans are going back to work. They are determined to keep themselves and their country moving forward, refusing to retreat in anxiety or in fear.

In that very same spirit, Canadians from every region of the country, citizens from every culture, race and religion who make our country strong, and from every political party in our democratic system, must find common ground and profound tolerance so that together we can make the greatest possible contribution to bringing hope, confidence and optimism into the only world we have to care for.

**Hon. Michael A. Meighen:** Honourable senators, one week ago today we were given a brutal and unforgettable wake-up call. Three acts of violence — so shocking in their magnitude that few, if any of us, would have ever contemplated such barbarism — forced us to realize that our world is no longer a safe place or, at the very least, no longer as safe as most of us thought it was when we went to bed on September 10. We have enemies and they are prepared to bring their special brand of terror and hatred to our very doorsteps.



Words cannot express the horror that all of us felt when witnessing those ghastly pictures on the television screen last Tuesday morning. I was in Edmonton with many of my colleagues and, like you, we could simply not believe what was unfolding before our very eyes. We were, quite simply, overwhelmed by those acts of senseless violence. Our hearts and prayers go out to our American neighbours, as does our admiration for their courage and fortitude.

[Translation]

I join with all Canadians in expressing deepest condolences to the families of the victims of this tragedy, not only in the United States but in Canada and several other countries. I must also express my admiration of the thousands of volunteers who have been working day and night, and will continue to do so, without a break, for a long time yet, helping seek out survivors and clear away the devastation.

[English]

I wish to join Senator Lynch-Staunton and other colleagues in expressing my thanks and admiration for Canadians everywhere who immediately extended warm and generous hospitality to stranded travellers from all over the world, including, it would appear from the remarks of Senator Kinsella, even from New Brunswick.

Honourable senators, this will be unlike any war that we have ever fought. The last time and, indeed, every time in the past, the enemy was obvious. This time the enemy is fleeting, shadowy and, when all is said and done, cowardly. Our war against terrorism will not be a war of dramatic victories. It will be a drawn-out affair. It will require all our reserves of patience and persistence. This will be a war that will rely as much if not more upon intelligence-gathering rather than on sheer might.

[Translation]

I was very pleased with Minister Manley's unequivocal statement to the effect that Canada is firmly committed to working along with the United States and our NATO allies to take all necessary steps to combat terrorism.

It is regrettable that this statement of support was late in coming, but in times like these we have a duty to focus on the big picture and not get into squabbles over less important matters.

[English]

I know that the men and women in the Canadian Armed Forces, the RCMP and other law enforcement agencies, as well as in the intelligence community, will give their all in the battle against terrorism. We, as a people, must give our all in support of them. Budgets must be increased, equipment upgraded and procurements fast-tracked. I am pleased that Minister Martin has indicated he expects spending on defence and national security to increase. We look forward to seeing those details.

Of course, readying ourselves for battle means we must ascertain as Canadians what role we can best play. I and many others have long argued that we are not making adequate use of our reserves, particularly here at home. Now is an excellent opportunity to remedy that mistake.

[Translation]

The war against terrorism will not be a conventional one. Let us not, honourable senators, commit the classic error of repeating the last war. This one will be won, in large part, by brains, not by brawn. It will not be a war won by the side with the most tanks or heavy artillery.

[English]

This war against terrorism requires a new way of thinking, a new vision. The United States and its allies will need to have highly sophisticated equipment, highly trained intelligence and linguistic experts, and highly mobile anti-terrorist forces. This war against terrorism will be ideally suited for niche players. It is tailor-made for Canada's expertise. Clearly, Canada does not have the brawn, but we certainly do have the brains. Let us use them. Let us use them and play the role that the world has come to expect of Canada.

Honourable senators, just as we must ensure that Canada plays an appropriate role in the fight against terrorism outside our borders, we must also work to insure that terrorism does not touch down inside our borders. We will need to streamline our border practices and immigration policies to ensure a substantial degree of consistency with the United States. What a shame that it has taken a tragedy of this size to force us into a long overdue review.

What a shame, as Senator Fairbairn noted, that the three ground-breaking studies into terrorism and what can be done to combat it have been allowed to gather dust. These studies were led by our former colleague Senator Kelly and, at least in the case of the last one, ably also by Senator Bryden and other colleagues. What a shame they were not better used.

Nonetheless, I and most Canadians are very pleased to hear that the government is preparing to make amends for our sins of omission and to move quickly to make the necessary changes. Now is not the time for pandering to those in Canada who constantly complain about our close relationship with our best friend and neighbour. A threat to our neighbour is a threat to us, and we must work together to build the forces and the fences to keep this threat at bay and to ultimately destroy it.

Honourable senators, as you know, this chamber has recently created a new Standing Senate Committee on Defence and Security. We could not have known then how timely was our decision and how apt was our name. This committee will have an opportunity to carry on and hopefully to implement the good work of Senator Kelly.

I am sure that our chair, Senator Kenny, and other members of the committee, myself included, will want to study all the implications of this crisis, including the ability of our Armed Forces and law enforcement agencies to meet these new threats so that we, as Canadians, may also do our part in the struggle which appears to inevitably lie ahead.

In that endeavour, I know that we will have the wholehearted support of the Canadian people, just as I know that the Canadian people would want us to unequivocally support the motion before us.

**Hon. Douglas Roche:** Honourable senators, my first words are an expression of deepest sympathy to the victims and their families who have suffered the evil of the terrorism that struck New York and Washington last week. Second, I say that I will stand with Prime Minister Jean Chrétien who, yesterday, set a course for Canada to give a reasoned response built on our nation's values of freedom, justice and tolerance.

I urge the government to continue to respond in a way that upholds the principles of international law. I encourage the government to shun the language of war which suggests that only militarism can combat terrorism.

• (1550)

Canada is not in a state of war. It is not war that we should seek but justice. It is not the rule of war that should predominate but the rule of law.

The people of the United States have been gravely wounded. There is a loud cry for vengeance. However, revenge as an end in itself will not restore the world to order. Merely defeating the enemy of terrorism will not cure the problems that feed the hate that terrorism spews out. Military action by itself may give us the feeling that we are doing something, but we will be fooling ourselves that we are actually accomplishing a safer world. A cycle of violence will only create more hate, more terrorism, and more danger for all humanity.

Of course, the terrorists who committed these terrible acts must be hunted down and brought to justice, just as the police capture a criminal in our own neighbourhood. It may take military action to do this, but the action must be proportionate so that the culprits are punished without inflicting more death on innocent civilians.

Canada should be guided in its actions by Resolution No. 1368 adopted by the United Nations Security Council on September 12, 2001. Calling on all states to work together to implement international anti-terrorist conventions, the Security Council expressed its readiness "to take all necessary steps to respond" to the latest terrorist attacks, and to act in accordance with their responsibilities under the Charter of the United Nations.

Article 51 of the UN Charter, the self-defence article, permits a state acting alone or collectively to defend itself against an

armed attack, but such an action must not diminish the authority and responsibility of the Security Council to maintain or restore international peace and security. The international coalition now taking shape cannot and must not supplant the authority of the Security Council.

Not only must the defence be within the confines of international law, it must be part of effective international cooperation to combat terrorism based on the principles of the Charter, including respect for international humanitarian law and human rights.

At the very least, any military response must be limited to the least possible damage. Canadians have always upheld the value of all humanity. We must never approve military strikes that have the effect of killing innocent people or triggering a humanitarian catastrophe.

At this very tense moment, Canada, working with the United States, must urge restraint in the use of force. We must help the United States to see that it should dedicate its great powers to lead a humanity-centred response in which appropriate military action is augmented by a range of comprehensive measures to truly root out terrorism.

Canada can make a specific contribution to fighting terrorism by such measures as helping to strengthen the anti-terrorist machinery of the UN, including the immediate establishment of an international tribunal to mete out punishment to terrorists; stimulating the new coalition to pursue intelligence sharing, police coordination, passport control, travel surveillance and judicial enforcement against terrorists, with increased funding; and stepping up its work to end international production of fissile material and control of all existing stocks so that future terrorists cannot gain access to nuclear weapons materials.

In calling for a larger view in the midst of this crisis, we must hold to the belief that war itself is not the solution to terrorism. We must not be afraid to say this, based on the conviction of our values.

At this turning point for the world — for that is what it is when terrorists anywhere can covertly destroy the prized assets of the powerful — we need to face up to a hard reality: not raw military strength, nor nuclear weapons, nor missile defences will defend us against those who lash out at humanity itself because of their consuming hatred. Such hatred exploits the brutalities of poverty, oppression, power and greed of modern society. Thus, our long-range defence lies in addressing the great injustices that today are worsening the divisions between rich and poor, the powerful and the vulnerable, the triumphant and the despairing.

There are vital questions that now challenge us. Will we lift ourselves up to get at the real problems of social disorder and the roots of hate? Will we strengthen the international machinery to promote the rule of law and economic and social development? Will we provide genuine hope to the growing numbers of dispossessed?



Honourable senators, what has war produced for us so far? In the 20th century, at least 110 million people were killed in 250 wars, six times as many deaths as in the 19th century. In the year 2000, 40 armed conflicts were fought in the territories of 35 countries. There are 500 million small arms in circulation around the world, arms which kill 500,000 people a year. Governments plead that they have little money for social programs, yet they are currently spending \$800 billion a year on military expenditures, which is 80 times more than the \$10 billion they spend on the entire United Nations system.

This emphasis on militarism stands in sharp contrast to the social deficit of humanity. Almost half the world's people live in abject poverty. Of the 4.6 billion people in developing countries, 1 billion lack access to clean water and 2.4 billion do not have basic sanitation. The richest 1 per cent of the world's people receives as much income as the poorest 57 per cent. Sixty-six countries are now poorer than they were a decade ago.

That is the reality of life for countless people whose anger against the West, whose riches and high standard of living are flaunted daily on television that reaches the most remote corners, is rising in a palpable way. Such a climate is bound to foster the seeds of terrorism. Stamp out today's terrorists without stamping out the problems that spawned them and we will have accomplished little to ensure our safety, for tomorrow's terrorists are the children in today's refugee camps.

A distinguishing feature of our time is that morality and pragmatics have intersected. What we have long known we should do for our brothers and sisters on the planet we now know we must do if we are to survive without the most wrenching dislocations in our lives. It is not news that moral teaching emphasizes the core values of respect for life, liberty, justice and equity, mutual respect and integrity.

• (1600)

It is news that technology has brought us to the point where we all stand on one planet, breathe the same air, are affected by one another's problems and possess the power to decimate all life.

The physical integrity of all human life today demands political policies that enhance, not diminish, life in every region of the planet. The common good requires policies that promote sustainable and socially equitable development and peace in all regions of the world.

Finally, honourable senators, there is hard slogging ahead for Canada to help build the conditions for peace, development, equity and justice. Canada's real strength will be shown in our willingness to use the present catastrophe as a wake-up call to energize the political systems to provide social justice in a shrinking and much more dangerous planet.

**Hon. Jim Tunney:** Honourable senators, I rise today to deliver a statement that, until a week ago today, September 11, I could never have contemplated making.

When I was a child, I remember the wanted poster that read, "Wanted Dead or Alive!" All I want, and all America wants, is to see them brought to justice.

This obviously staged and press-minded comment by President Bush is headlining today's press. Some more inappropriate comments that have been eliminated were seen on television last night and this morning.

In making that statement, President Bush has touched the darkest side of the American psyche. More thoughtful American citizens are asking the legitimate question: Why is America, why are Americans, the most hated by so many in the more impoverished parts of the world? My answer to that would be that it is not just that the Americans are wealthy and powerful; rather, it is that they have a tendency to flaunt the fact that they possess both. They have an obvious inclination to regard bombs and bullets as the solution to issues and matters with which they do not agree. If I am wealthy and intellectually brilliant — and I am neither — I do not need to keep reminding people of that. They will recognize it without my ostentatious show of it. People are only more disliked by the continuous repetition of such statements.

Based on my experience in Russia and Ukraine over some years, I never ceased to be distressed by the remarks made about the U.S. on the one hand and the totally favourable remarks made about a country of which the people are so fortunate to be a part — our Canada. I am most concerned that too often we make remarks that Canada is felt to be the best country in the world in which to live, and that we subsequently may be perceived as displaying the same arrogance as the Americans display.

We are pledging to be America's closest ally, and in Afghanistan's response to a response, we could conceivably be targets of retaliation on our West Coast, in Halifax, in Montreal, or even in Ottawa.

Honourable senators, we are dealing with an impoverished nation. The Afghan people are the poorest of the poor, with an illiteracy rate of 95 per cent. In our preparations to respond, we must ensure that we, as a country, know precisely what our mission is, and the specifics of our campaign against terrorism must be clear and known to all. We must also ensure that there are both educational and economic components to the long-term strategy, which will be just as important as the short term.

**Hon. J. Michael Forrestall:** Honourable senators, like every one else in the chamber, I rise first of all to express my sincerest condolences to the families and friends of those who lost their lives so tragically in the United States just days ago. I extend my sympathy to them. I want them to know that the prayers of my family are with them today and will be until such time as Senator Roche's dream of peace is once upon us.

We cannot win this war alone because it is a war. We can, however, by multilateral efforts, support our neighbours and friends to the south.



I have three grandchildren and a daughter in Washington that I did not hear from until Wednesday, simply because we could not reach them. I have sisters-in-law in Manhattan, working in the very area of the tragedy. I have empathy and personal feelings in that respect.

I thank the Leader of the Government in the Senate for bringing forward this motion. I listened carefully to debate in the other place on television yesterday. I was moved by the sincerity of the Prime Minister's appeal to his fellow countrymen and by his pledges of support for our American allies — our friends and neighbours. I was moved then just as I have been moved today by the comments here, as I am sure all have been moved.

My friends, while we sympathize and support a vigorous battle against terrorism, and while we recognize we must take action, I suggest to you that we must be quite honest with ourselves. It is with a heavy heart that we in this chamber debate this motion. People are afraid of the unknown; they want answers; they want security; and they want protection. It is not hard to understand because the crime was monstrous. Terrorists and their supporting nation states have stolen our freedom and our sense of security. They have shown little or no regard for humanity.

Last week, senior citizens were requested not to take pictures of the Parliament Buildings. Perhaps it is a necessary caution in the eyes of some. Is this the level to which our freedoms have been contravened and compromised by these criminals?

• (1610)

It will not come as a big surprise to you, honourable senators, that I am concerned, as are you, about national security and transport safety. We all come to this chamber with different perspectives on similar problems, and to some degree, we have a duty to bring them to the attention of the government of the day. This is not the time to leave stones unturned or questions unanswered. It is not the time to take "no" for an answer or to accept "we will deal with that later." That is not good enough. Whether or not we like it, we are at war. It is a different kind of war. We have a solemn duty to protect the people of Canada and to support our allies. We have a pledge to the people all over the world who suffer from terrorism.

I pledge my support to the Prime Minister of this country, knowing that people of goodwill will do what can be done. It may be little that we can do. It may mean giving some money to our police and military to strengthen them. It may mean giving funds to CSIS for surveillance capacity in order to improve our ability to seek out, identify, track, and, where appropriate, bring to justice those who would perpetrate such heinous crimes on our society.

These civilian airliners that struck the World Trade Center and the Pentagon could just as easily have struck the Parliament buildings here. The August edition of *Jane's Intelligence Review* states that Osama bin Laden has cells here in Canada. The

electronic media has said that five individuals here in the nation's capital are being monitored by the security service.

Honourable senators, the government must take immediate steps, in my opinion, to increase the funding to the Canadian Security Intelligence Services, the RCMP, the Customs and Revenue Agency, the Canadian Coast Guard, and the Department of National Defence. Some of you may note the order in which I have listed those. It was quite deliberate. I do not want to go to war. I do not want Canadians to go to war. However, I do want to protect our citizens in any way that we can. Next to prayer, I see that as being perhaps the best first route.

The government must take steps to increase human intelligence assets in Canada to root out these terrorists who threaten our security and the security of our allies. Clearly, human intelligence is an area in which all Western countries are lacking because they all failed to discover this evil plot against humanity.

The government has cut CSIS funding in the past. This must halt. I am told that we have little to offer in terms of intelligence to our allies. Indeed, in this regard, we are somewhat irrelevant. It was not always that way. However, it is the current situation. That situation makes valid the current criticisms of Canada's contribution.

Additionally, the RCMP must receive increased funding. We should not undertake any more cuts to our national police force, particularly in light of the events in which we find ourselves.

The cancellation of Ports Canada Police has left our ports vulnerable. Local police do a good job, but they do not do the job of the nationally trained ports police who were involved in customs, smuggling and the penetration of our country by aliens illegally. These are important windows of security for Canada.

I suggest, and have for many years now, that we take greater advantage of our nationally trained police force. We should staff our ports, airports and other points of vulnerability with our nationally trained police force. We are learning, as we did in the Transport Committee in conversations with airport management and representatives of airlines over the last two or three years, the extent of our vulnerability.

For the first time in my life, I was apprehensive getting on a plane this morning to fly here. I became more apprehensive, as you will appreciate. We were 55 minutes late by the time they had closed the door, without anybody telling us why.

I think the move to strengthen on-board security by locking the flight deck door is probably a good idea, certainly when the plane is airborne or from the moment it moves away from the terminal. However, I am not enamoured with that approach largely because the stakeholders, the pilots themselves, have very serious reservations because of what may happen to them in the event of an accident. How do they get out of a cockpit door that is rigid and jammed?

On the other hand, I do not dismiss lightly, as does Minister Collenette, the suggestion that we do develop with the specially trained elements of our national police force the concept of air marshals. This is not a new idea. It is not alien to our thought. We thought about it long and hard just a few short years ago and decided to go in another direction.

The Customs and Revenue Agency needs our further support.

Honourable senators, the last area is the strengthening of Canada's military. This government has significantly eroded it, and Canadians know it. When the Prime Minister says that we must fight a war against terrorism, I must ask the government what our army will fight with.

The Canadian navy lacks robust modern helicopters. That is a subject matter with which we will deal in the ensuing week. I would hope that we deal with it in some depth, so our people might get answers.

The navy is understaffed. In this regard, it is underfunded and does not have sufficient money to train. How would we send F-18s to that troubled area of the world. We no longer have tanker capacity in the Armed Forces. We must borrow one from our neighbours. The army is just about burned out from the Balkan peacekeeping operations. Our tanks do not have armour to stand up to hand-held weapons available to terrorists today, let alone fight on a modern battlefield. The artillery regiment's guns are old and need replacement. In fact, the army is planning to turn mortar units over to the artillery so that the artillery has a more substantial role. Field engineer units are so weak that they will likely receive pioneer units from our under-strength infantry battalions. The British army tried that several years ago and abandoned it.

With only nine near full strength battalions, the government is planning on going to six, thus eliminating one of Canada's three brigade groups. It would be laughable if the situation were not so bad.

• (1620)

We have no rapid reaction capability. Sadly, the Canadian Airborne Regiment was disbanded. It should have been fixed. A strict commanding officer, a strong regimental sergeant major and an effective adjutant — three people — could have fixed that unit. Now all we have is Joint Task Force 2, but it is only squadron strength. Perhaps the government should enlarge this unit into three squadrons — one for training, one for counterterrorism and one for special forces operations abroad — in order that we might have something with which to fight terrorism.

We cannot send our new Coyote reconnaissance vehicles to Afghanistan — if we could ever get them there — as they have no direct fire support in any confrontation with field tanks. As I have said, CF-18s would take a long time to get to bases and then would be very vulnerable. We will not strafe the Taliban with Sea Kings. They have no real land attack capacity in the navy. Canada has little, even of intelligence value, to add. So our war on terrorism will be relegated to limited military, diplomatic and

intelligence support — very limited support, despite the Prime Minister's rhetoric and Mr. Day's rush to send ground troops overseas.

Let us all hope and pray that nothing goes wrong anywhere else in the world. North Korea and Iraq come immediately to mind.

Honourable senators, to sum up, the Government of Canada has left our national security agencies a mere shell of themselves and we must take immediate steps to reverse its past troubled course. No one will complain if the government takes action. We all know the risks of doing nothing. We witnessed it last week.

**The Hon. the Speaker:** Honourable senators, I am sorry to interrupt the Honourable Senator Forrestall but his 15 minutes have expired.

**Senator Forrestall:** May I have leave to continue?

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Leave to continue has been granted.

**Senator Forrestall:** Honourable senators, let us get in the game before we get hit on someone else's terms.

My prayers will always be with those who lost their lives in the tragedy.

[Translation]

**Hon. Lise Bacon:** Honourable senators, one week ago, the United States were the target of incredibly violent terrorist attacks. For thousands of Americans, time stopped one week ago.

I wish to express my deep sympathy and my sincerest condolences to all those who mourn loved ones. I also have a special thought for the Canadians who are among the victims and for their friends and family. Let us hope that time will ease their grief. It is my hope that the families of the victims will hear the comforting voice of Canadians so that they can overcome such a painful ordeal.

These attacks hurt America and the whole world. The daily lives of not only the Americans but of all of us has been affected. Each one of us, in his or her own way, will remain scarred. While relief workers are searching through the rubble looking for survivors, Americans are desperately trying to determine how to win the fight against terrorism. Individually and collectively, we must join forces and help them in this global war, because this is the only way to overcome terrorism.

We must preserve, democracy, freedom, diversity and the respect of human rights, which are all values that are dear to Canadians. It is sad that last week's attacks have triggered a deep resentment toward Canadians who are Muslims and toward other minorities. We must get our act together quickly! It is this same anger, this same hatred that is at the root of those recent events.



Let us not let those feelings surface at home. The true fight against terrorism lies beyond that. Let us promote hope, love, life, and let us think before we act. Let us seize the opportunity to understand and analyse our differences.

This is a time for healing. Time, which stopped last Tuesday, is again marching on. The extraordinary courage displayed by relief workers, both professionals and volunteers, require us to also rise to the challenge. This type of undaunted courage should inspire the families affected and also all of us. The fight will be a lengthy one.

Americans rolled up their sleeves in a show of unity. I am convinced that, likewise, Canadians are more united than ever.

I wish to express how proud the gathering on Parliament Hill, last Friday, made me feel. The Prime Minister wanted to give Canadians an opportunity to show their support for our neighbours, for our friends. This is where the strength and determination of Canadians were expressed.

[English]

**Hon. Donald H. Oliver:** Honourable senators, I am pleased to rise today to speak in favour of the motion before this chamber. The events of the past week have been most unsettling. We North Americans are not used to seeing death and mayhem on our doorstep. We have, foolishly perhaps, convinced ourselves that terrorism is something that happens elsewhere. Since the sad events in New York and Washington, the Americans have called upon their friends and allies around the world to join them in helping to stamp out the scourge of terrorism wherever it exists. Canada has joined the chorus of supporters. We have made a commitment as a nation to stand by our American friends. We are committed to war — morally, politically and, most assuredly, economically.

The question we need to ask ourselves, honourable senators, is this: What exactly is war in the 21st century? It is unlikely that it will not be a war like anything we have ever seen before. Is Canada ready for this type of war?

When we talk about fighting terrorism, what weapons do we have in mind? Surely not conventional weapons like tanks and missiles. In the case of Afghanistan, the Russians learned, to their sorrow, the folly of such weapons in a land such as that. Perhaps it would be a ground war like Vietnam. Air strikes are probably not realistic against our terrorist enemy.

Terrorists operate in a clandestine world far from the concerns and understanding of the average Canadian. They work in networks of highly secret independent groups. They communicate by cell phone, the Internet, satellite and e-mail. Do we have the resources, the know-how, the desire or the will to take on such an enemy? Do we have the ability to defend ourselves should these people decide to strike out at us in retaliation?

Osama bin Laden has become the target of the Americans' wrath. Is he the culprit — the only culprit? Facts to date are in

short supply. If he is in some way responsible, how do we fight him? He reportedly changes residence twice daily. He has no ostentatious headquarters. He travels simply and lives in the shadows. Yet, many of his followers are said to be highly educated and well travelled. They have mastered the intricacies of the Internet and the high-tech world. They are certainly not the ragged peasants or ignorant hill people they are so often portrayed to be. They operate from a network of terrorist cells with five to 10 people in each. They use elaborate, sophisticated communications techniques. They operate out of more than 34 different countries in the world.

Is Canada ready to fight such an enemy — an enemy largely invisible, ready to strike with deadly consequences at a largely defenceless population?

• (11630)

If not through our Armed Forces, what can Canada do to realistically address the problem of terrorism? Do we need a strong prevention of terrorism act? I certainly think so. If so, what then happens to the rights and values that we know and cherish under the Canadian Charter of Rights and Freedoms? How do we reconcile the two? Can the two ever be reconciled?

As our colleague Senator Kelleher pointed out in an article in *The Toronto Star* recently, as in the case of the tragic Air India attack, what happened on September 11 in the U.S. was a massive failure in intelligence gathering. Here in Canada, our intelligence-gathering capabilities are restricted to say the least. In fact, CSIS is specifically barred from gathering intelligence outside our borders. How, then, do we hope to protect ourselves against retaliation when we have such a limited, if non-existent, capacity to find out things about our enemies?

Just last February, terrorists planned to launch a sarin gas attack on the European Parliament. What would have happened if such a thing had occurred here? By taking part in the American war on terrorism, will we then become targets for potential chemical or biological counterattacks, a possibility raised by Prime Minister Blair and other world leaders? Are we, as parliamentarians, ready to take on that responsibility? Our government has taken no steps to date to prepare us for the evils of a possible war of toxic chemicals.

Personally, I believe that we are sadly ill-equipped to fight anyone. We must be cognizant that we are talking about a fight against an elusive, highly motivated group of individuals, who show little compunction about attacking and murdering thousands of innocent civilians. Their moral values are different from ours.

As one commentator recently reminded us, we are democratic; they are not. We have respect for human life; they do not. We hold essentially liberal values; they do not. As we look into these issues, it is important that we never lose sight of our basic Canadian values, but we at the same time need to understand the nature of the enemy and act accordingly.



The moral dilemma now facing Canadians is clear. We are committed to come to the aid of the Americans, our friends and our neighbours. I have no problem with this. They are our friends and we must come to their aid, as they would come to ours in similar circumstances. However, I repeat: Are we equipped to take on an ethereal enemy, an enemy that lives in the netherworld of false passports, forged identities, murder, extortion and terror? What options do we have? If an armed force is not a realistic option, what can we do to help our neighbours, while at the same time doing something practical to stop the terrible toll terrorism brings upon us?

I agree with the Prime Minister of Britain, Tony Blair, when he stated:

So we need to look nationally and internationally at extradition laws, and the mechanisms for international justice; at how these terrorist groups are financed and their money laundered; and the links between terror and crime and we need to frame a response that will work, and hold internationally.

Honourable senators, this is surely a proper role for Canada.

In conclusion, I received a fax on Friday from a business friend in Dallas, Texas. I wish to share a few of his lines with honourable senators. He said:

At this moment, none of us can know the impact that events of that day will have on our lives, our families, our careers, the economy, our country and the world. We do know that those who lost loved ones in this brutal, murderous expression of senseless rage are devastated and need our prayers.

Question: What should we do? First, thank God that you, and hopefully your family, are indirect and not direct victims of this despicable act. Next, make a financial contribution to the Red Cross and/or other relief organizations that are aiding the families of the victims of the attack. Third, respond to the tragedy by recommitting and redirecting your life towards being a better person, doing better things to help more people. Remember, you can have everything in life you want if you will just help enough other people get what they want. Fourth, make a "gratitude" list of the things you are grateful for because you are an American. Fifth, take to heart what Carl Bard said: "Though no one can go back and make a brand new start, anyone can start from now and make a brand new ending." Now is the perfect time to take that step.

[Translation]

**Hon. Serge Joyal:** Honourable senators, I should like to add my voice to that of the honourable senators who have expressed their profound sorrow and sympathy to the families of the victims and especially to the families of the Canadians who lost their life in the tragic events of September 11, 2001.

[English]

We are all united in condemning these despicably evil acts perpetrated against the civilized world, and the values that form the foundation of our free and democratic society. The international community cannot tolerate the activities of terrorist groups that carefully orchestrate the deliberate murder of innocent civilians. Those responsible for the terrorist attacks, and those who help facilitate them, must be held accountable for their crimes before courts of justice. The world order cannot survive if these attacks are not redressed and eradicated.

It is essential, honourable senators, that the two Houses of the Canadian Parliament, the House of Commons and the Senate, the combined voice of the people, the regions, and the minorities of our country, strongly express their condemnation of this heinous violation of our fundamental principles. However, they must also consider and deliberate the decision of the government to cooperate with the United Nations and our NATO allies in the elimination of international terrorism.

It is the responsibility of Parliament, the democratic embodiment of the Canadian people, to scrutinize the proposed methods of achieving this objective. Parliament as a whole, and the Senate in particular, has views that should be stated and taken into account by the government, especially on an issue as crucial as the defence of our country and our national security. This important function of Parliament is entrenched in the National Defence Act itself. Furthermore, in January 1999, a Special Senate Committee on Security and Intelligence, headed by former Senator William Kelly and Senator Bryden, released a comprehensive report. This report continued the work of two earlier special reports on terrorism-related issues released in 1987 and 1989. It contained 33 specific and still very relevant recommendations, with recommendation 28 emphasizing the role of Parliament. On such issues, the Senate has the independence, continuity and long-term perspectives that are essential for the effective performance of our duty as parliamentarians. The current Standing Senate Committee on Defence and Security will certainly continue this vitally important work.

Honourable senators, I should like to submit three points to you today. First, terrorism strikes at the very foundation of our free and democratic political order. It seeks to destroy the principle of the rule of law. Terrorists target the peaceful course of our lives in society and attempt to disrupt the social fabric of our democratic institutions, which are based on respect for human rights and the peaceful resolution of disputes.

Since the end of the Second World War, Canada and the international community have laboured to construct a peaceful world order in which states do not resort to violence to solve their disputes. These efforts are based on respect for the principles contained in the Universal Declaration of Human Rights and other international human rights covenants. International tribunals have been established to hold perpetrators of crimes against humanity accountable for their actions. Canada has been a leading champion of initiatives to expand the rule of law at the international level, first, by signing all 12 international anti-terrorism conventions and, second, by promoting important initiatives like the 1998 Treaty of Rome establishing the International Criminal Court.

• (1640)

The failure to include terrorism within the jurisdiction of the ICC due to the inability of the participating governments to agree on a definition of terrorism is an egregious weakness. The tragic events of September 11 demonstrate that its inclusion in the Rome statute must now be a priority objective for the Canadian government and all its allies.

Canada has entrenched, in our Charter of Rights and Freedoms, our belief in the fundamental values of human rights and democracy. Indeed, we have deemed several of these rights, notably the right to vote and the freedom to enter, remain and leave the country, so fundamental that they are exempted even from section 33, the notwithstanding clause. These rights can never be abrogated, either by the Parliament of Canada or any provincial legislature.

The late Pierre Elliott Trudeau highlighted the great strength of democracy. He said this:

Democracy is superior to other political systems because it solicits the express agreement of the people and thus avoids the necessity of violent changes. At each election, in fact, the people assert their liberty by deciding what government they will consent to obey.

Terrorists, whether Islamic fundamentalists, Basque separatists, Irish paramilitary groups, or extremist American militias, to name only a few, reject the peaceful democratic route for change in favour of violence, fear and chaos. They seek to destroy our way of life. Despite our legitimate differences, it is imperative that Canada work effectively with our allies in the international community to preserve the rule of law. Jeffrey Simpson wrote last Friday in *The Globe and Mail* of our closest ally and neighbour, the United States:

We do not agree with the Americans about everything. We do not always see the world through similar eyes. But those differences pale beside what we share. It goes beyond geography. It stretches past commerce. It even extends beyond the thousand ties of kith and kin and friends. It stands on the bedrock beliefs of freedom and democracy, and the values that underpin them. The two countries' institutions that express democracy and protect freedom are different: the commitment to them is the same.

Our common democratic beliefs and the principles of international law that we value are being assaulted by terrorism, and we must act to defend them.

This, however, brings me to my second point. In responding to terrorism, we must be faithful to our convictions as a distinct democratic country. We cannot allow anger and fear to lead us blindly into overly hasty initiatives or else we risk destroying the very values that we seek to protect. In the absence of careful deliberation and thorough analysis, supposedly quick-fix solutions, based on unproven assumptions, will not enhance our security. In fact, they risk compromising the principles that have

made Canada a land of hope, equality and cultural diversity. Already we see people blaming Islam — a peaceful spiritual movement with a rich cultural tradition that has made invaluable contributions to humanity — for terrorist attacks that violate the central tenets of the Islamic faith and that are condemned by the overwhelming majority of its adherents.

Terrorism is not a prescription of the Koran. Freedom of religion is a fundamental right, as is freedom of thought and freedom of association. In our democratic world no religion has a superior political status that gives it the right to impose itself on the will of free citizens. Our dignity as individual human beings entitles all people to exercise their free will and to make their own choices. Violence and terror are a very assault against that human dignity.

Some have insinuated that lax Canadian border controls and overly generous refugee or immigration policies have made our country a safe haven for terrorists. Some advocate forming an integrated border with the United States, without considering the many differences between our countries.

As the Honourable Elinor Caplan, the Minister of Citizenship and Immigration, stated on September 4, 2001, as reported in the *National Post*:

We have different constitutions. We have a Charter of Rights and Freedoms, they don't. We're Canadian. I think it's really important that people realize we are Canadian.

Honourable senators, it should be possible to be more effective in the fight against terrorist infiltrations at the border without compromising our respective sovereignty. We can take comfort from the fact that since the attack so many government voices have spoken in favour of this prudent, well-balanced response. This, rather than a headlong rush to clamp down on civil liberties and reduction of sovereignty, is the behaviour that befits a mature and responsible democratic society such as ours.

Yes, we are Canadian, and it has a bearing on the initiatives we should take to fight terrorism. A return to a shoot-on-sight approach would not be, in my opinion, the legitimate way of inspiring respect for what we hold to be fundamental norms of the legal order. Such logic cannot but exacerbate violence, vengeance, distrust and the law-of-the-jungle attitude that we have tried to eliminate from the arsenal of the free world.

Canada has the freedom to define for itself what it considers appropriate to fight terrorism. Article 5 of the NATO treaty provides that each member state has to

...assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force...

In other words, Canada has a shared responsibility to act but can determine for itself the extent of its contribution beyond its existing commitments to the maintenance and respect of our Canadian values.



Canada has full control over its contribution to the fight against terrorists. Over the years, Prime Minister Jean Chrétien has repeatedly pushed very specifically for international initiatives to fight terrorism. Canada is convinced that international cooperation and coordination is required, and we have worked with the economic summit countries for over 20 years in countering terrorism.

At the G-7 summit in Halifax in 1995, Canada, under the initiative of Prime Minister Chrétien, convinced its partners to hold a ministerial meeting on terrorism. The meeting was held here in Ottawa in December 1995, in partnership with all five permanent members of the UN Security Council, as well as the presidency of the European Union.

The ministers present in 1995 here in Ottawa approved a document entitled "The Ottawa Declaration," which contained a 10-point action plan to fight international terrorism. Key steps included, and I quote point 4:

Pursuing measures to prevent terrorist use of nuclear, chemical and biological materials.

Point 7 states:

Strengthening protection of aviation, maritime and other transportation systems against terrorism.

• (1650)

Since then, Canada has been participating actively in international meetings to pursue the objectives set by the "Ottawa Declaration." At the G-7 summit in France two years later, in 1997, a report on anti-terrorism efforts was given to the members of the G-7 and the issue has become a permanent item on the agenda of their summits, always with the support and initiative of Canada. This is, in our view, one of the many effective fora where the enactment of additional initiatives should be debated and taken jointly.

Canada has fully assumed its G-7 responsibilities in the past, and it is there that our contribution to the fight against terror, in cooperation with our closest partners in the free world, could be most effective.

**The Hon. the Speaker:** Senator Joyal, I regret to advise you that your speaking time is up.

**Senator Joyal:** I have two more pages to read.

**The Hon. the Speaker:** Honourable senators, is leave granted to allow Senator Joyal to continue?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Senator Joyal, you may proceed.

**Senator Joyal:** Thank you, honourable senators.

My third and final point, honourable senators, is that when a country and the lives of its citizens are threatened by terrorists, it is not wise to listen to the councils of fear, aggression and the

spirit of vengeance. Their guidance will not help us fight terrorism effectively. It masks itself in secrecy, darkness, subversion, hypocrisy and deceit. It cannot, therefore, be easily fought by tanks, missiles and bombs. Rather, thorough and discreet investigations, involving coordination among many different government agencies, are most likely to produce effective results. This is a lengthy, difficult and time-consuming process, but despite our understandable desire for swift retribution, we must accept that this is the most effective way.

The democratic voice of the Canadian Parliament remains the ultimate and best rampart protecting our rights and freedoms in these times of uncertainty that call for patience, cooperation and a true patriotic spirit. The present crisis is a profound test for our democratic institutions. What compromise over the exercise of our civil liberties and the sovereignty of our country are we ready to make to maintain a fair level of security?

Canada must stand with our allies to bring to justice those responsible for this senseless slaughter of innocent civilians and to combat the global scourge of international terrorism. In doing so, however, let us be concerned to protect the fundamental rights and freedoms of all Canadians and the democratic principles that are the bedrock of our country and that we share intimately with our closest ally and friendly American neighbours.

**Hon. Gerald J. Comeau:** Honourable senators, many of my fellow Nova Scotians have asked me to pass on their heartfelt condolences and prayers to the families and friends of the victims of last week's tragic events in the United States. People in my region, like civilized people all over the world, are shocked and saddened. Those I talked to could find no words to adequately describe the horror and revulsion at the mass murder of men, women and children in their place of work, travel and leisure.

I have read and heard in the media, and here this afternoon, some advocating that our attention should be directed at fixing the root causes that lead to violence. I would suggest that poverty and mass murder are two entirely different issues and two different sets of problems. We cannot fall in the trap of letting historical grievances, whether legitimate or not, be used to justify violence. There can be no sympathy with terrorists. They are not the victims. By all means, we should all try to make this a better world in which to live, but terrorism and righting past injustices are two entirely different issues and require two entirely different sets of responses.

Honourable senators, our response must be clear. Violence will not be tolerated or excused.

**Hon. Nicholas W. Taylor:** Honourable senators, I will not be as brief as the previous speaker. I wish I could be.

First, I want to also extend sympathy to the people affected and also to support the motion, although I know there is little we can say or do now that will ease the sense of loss that many of them must feel. I hope they take some consolation from the fact that there are literally millions of people around the world who extend their sympathy to them.



A number of people have indicated where they were when they first learned about these tragic events. I was in North Africa representing Canada at a 12-country meeting with Arab countries. Israel and Iran try to work out a solution to the Palestinian refugee problem. Naturally, this incident hit very close to home, especially when speculation concerned Arabs. We suspended the meetings for that day but continued on for three days afterwards. I must admit that we did make some progress, but I do not think you will read about it in the papers as a great breakthrough. However, I was interested to know that countries like Algeria and Israel could agree on some points.

Aside from that, I will take a philosophical line. In general, too often in our modern society we believe that the end justifies the means. The terrorist has just taken that to the ultimate end in saying that the end justifies the means. Terrorism is certainly not restricted to the Middle East. Many people still think that it could have been masterminded by U.S. or German people who hired these all-too-willing volunteers from other cells.

The point is that if we are to retire the netherworld of terrorism, we must get to the very root of what causes it. If we study history, we see that terrorism is present in many areas and has been in many areas. Even some of my own ancestors tried to blow up the House of Commons three or four hundred years ago because of religion, and which ends up to this day being burned in effigy on bonfires on Guy Fawkes Day. There is the burning of Atlanta, where the North tried to teach the South what the Civil War was all about. We can go back to the zealots in early Israel. More recently in Israel, right after the war, Israelis used the same terrorist activities as the PLO are now using to get their freedom. They blew up the King David Hotel, which had both military personnel and men and women in it; and perhaps worst of all, they machine-gunned the unarmed UN mission of Count Folke Bernadotte, with Menachem Begin, who later became Prime Minister of Israel, supposedly being one of the people in the group.

I am really pointing out that the line between a terrorist — a guerrilla — and a patriot is very thin indeed and quite often depends on who writes the history.

• (17:00)

In this case, let us try to analyze what are the roots of this Middle East form or the blowing up in Oklahoma City or the anarchist demonstrations at trade talks.

Having spent a good part of my business life in the Middle East, in Iran, Israel and Egypt, on both sides of the so-called question over there, and having had the experience of representing Canada three times at IPO meetings — the Muslim countries are usually supported by the African countries in the interparliamentary union — I can tell honourable senators that one must spend some time over there to realize a number of things.

First, North America has its trade agreement, NAFTA. Then there is the European Union. There is the Asiatic area, Korea and

Japan. There is no such thing as a trade agreement or trade area for Muslims. They have their noses pressed at the windows, or many people do, and it is so easy to see today, through far-reaching television cameras, that the standard of living in Western Europe, Canada and the U.S. is so far above theirs that they ask what is going on, why should it be so. If they try to get into one of the trade areas, they have tariffs against the goods. I have been in Africa when the farmers were going under in the Sahara area because we were donating our wheat. We did not worry. We complain about the Americans selling their wheat more cheaply than we do, but we were donating wheat that was breaking the back of the African farmer. This was in North Africa, which is a Muslim area.

Looking at terrorism from the point of view of economics, one can see similarities. Poverty in Ireland was one of the great bases of the IRA. The IRA was able to come to Boston to raise money to keep going, but as soon as the economy of southern Ireland surpassed that of the north the jobs became more plentiful and the violence seemed to die. Some say it was because the English were superior in diplomacy, but I think it was tied to the economy.

Wherever separatism raises its ugly head, it usually has its roots in a community that is willing to finance it, and if not willing to finance it at least hide it or cover for it. Therefore, we have to get those people to not hide and cover the terrorists in their midst. We want them to disown them or disown the person.

Now, I use the words "him" and "he" quite often, but the Patti Hearst story tells us that there are women terrorists as well as men.

We can talk about what happens to those who have the nerve to question the Western world. We only have to look at NATO. It is not terrorism when we fly in the bombers and kill innocent men and women, blow up bridges and so on. It is a police action. It was not terrorism when we burned and used flame-throwers in Mai Lai and through the Vietnam jungle in a defoliating scheme. It was a police action to stop communism.

People outside looking in say that we have one code of values for ourselves and another code of values for them. With terrorism, whether it comes looking down the barrel of a tank or whether it comes from crashing into a building, the innocent people are just as dead. In the new world that we are putting together, somehow or another we have to convey to these people that there is a place for them, that they are partners on this planet. They are not just people that we westerners figure should be saddled and bridled and rode for the sheer joy of the Western world for our higher standards.

You are getting a touch of that when you see people demonstrating at the G-8 conferences. That same thinking will continue to nourish terrorists. Many believe we do not care. The terrorist wants to have a place to get money and a place to hide. That will not come about from their community if their community feels that they are a significant and desired part of the planet.

For example, I just mentioned economics — let us look at drugs. I was fortunate enough to go with Dr. Keith Martin and visit a number of clinics. I followed up to see whether he was right, and he was right — when he said that nearly 90 per cent of the drugs patented in the last 50 years are used in North America and Europe. We are spending little money to wipe out disease in Africa and the Middle East. As far as the disease we do have in common with them, AIDS, we do not allow them to make generic drugs. When South Africa tried to turn out generic drugs for AIDS at one fiftieth the cost, economic sanctions were threatened. The U.S. is great for imposing economic sanctions as a means of bringing people in line, but we never put economic sanctions on somebody that will sell us oil, because we need it. Even Iraq sells more oil today than it did before we put sanctions on that country. Most people do not realize that.

There was the question of drugs. Our Western world has not gone out of its way to help the Muslim, the African poor to get them the drugs they need.

Lastly, an agrologist mentioned to me that the development of new types of wheat, corn, peas and potatoes that grow in temperate climates has progressed at great speed over the last 50 years. Nevertheless, the money that is spent on helping tropical countries raise certain fruits — for example, plantain or cassava — is still the same as nearly 50 years ago.

There is a vast mass of people who through the medium of television can see that they are not part of the world. That is a natural breeding ground for terrorism.

My suggestion, honourable senators, besides importing El Al to tell us how to run a safe airline and having normal security measures, is that we should take a long-term view of bringing these people in to being part of the earth community, if you want to call it that, and I just hope that vengeance does not become the reason we react. Vengeance is a very poor thing to base anything on. It was Golda Meir who said that an eye for an eye and a tooth for a tooth means that you end up with a bunch of blind old men without teeth. The same thing applies here with a vengeance. Both sides lose. Golda knew what she was talking about.

In closing, I would like to say that if there is to be a war, let it be on poverty, ignorance and hunger.

• (1710)

**Hon. A. Raynell Andreychuk:** Honourable senators, I wish to underscore the importance of this motion and the opportunity that it presents for us to call on Canadians to stand united through both Houses of their Parliament.

I want to add my voice to the condolences expressed to the American people and to the bereaved families. This atrocity has touched Canadian families, American families and families from many other nations.

We admire the resilience of the workers, the volunteers and of the grieving family members who must stand by, watching, waiting, not knowing whether any real hope remains at this late hour.

This motion gives us an opportunity, too, to register our admiration of the administration and the politicians at all levels of government in the United States as they stand united in their grief and in their commitment to make their country stronger by overcoming this tragedy.

Terrorism is not new, honourable senators. It has, throughout the ages, had two elements — force and violence. What is new is how close to home this terror has struck. We thought that we could not be more shocked or amazed or horrified after the events of the Second World War and the treachery that we have seen in all four corners of the world — in the Middle East, in Northern Ireland, in Bosnia, in Rwanda, in Sierra Leone, in Somalia, in Uganda, in Kenya, in Tanzania and, yes, even in Oklahoma. We had almost grown to believe that such things do occur but at a distance. September 11 proved that ours is a very small world, as others have underscored.

We are proud to see Canada united in support for our closest ally and friend, the United States. Over the last number of months in this place, we have had opportunities to point out our differences with the United States, but we quickly come to the essential truth that we share very similar values with the Americans. Hopefully, we will not lose touch with that truth in the coming years.

I was privileged to be part of the Special Senate Committee on Security and Intelligence, which filed its report in January 1999. In rereading that report, I was reassured. The study began in 1998 when Senator Kelly introduced a motion for a special committee to hear evidence on and consider matters relating to the threat posed to Canada by terrorism and to hear evidence on the counterterrorism activities of the Government of Canada. It is worthy to note that there were some 97 witnesses, most of whom preoccupy themselves in their professional lives thinking about terrorism in Canada and around the world. Terrorism is not a forgotten issue for those people.

I hope that every senator and every Canadian takes the time to read that report. Terrorism and its effects on Canadians were highlighted in that report. It is amazing to read it in the context of what happened on September 11, 2001, and to realize just how relevant that report was.

Incidentally, that was the third such report by the Senate. There is no oversight committee in the House of Commons. There is no apparatus to ensure that Parliament looks after this issue of defence and security. I was reassured that such a relevant report had come from the Senate. That is an important footnote to our frequent discussions about the relevance of the Senate. In my eight years as a senator, that report is one of the most important pieces of work that we have undertaken, though we, in this chamber, may not have realized its true importance until this time.



I want to underscore some of our findings for the benefit of Canadians. The counter-intelligence and intelligence services in Canada were actively involved in defining the issues that face Canada and the democratic world. However, as Canadians, we have been overly complacent, incorrectly assuming that we simply cannot be targeted. We have been too simplistic in our approach to our record and to terrorism in today's world.

The time has come to address our complacency and the reality of terrorism. I will quote from this rather prophetic statement at page 17 of our report:.

The established norm of behaviour used to be that terrorist groups would announce their threats and rush to take credit for their actions. In this way, their existence and their objectives would be as widely known as possible.

A new trend is for terrorists not to take responsibility for their actions. The destruction, killing or maiming of targets is sufficient to the cause...

The trend to avoid responsibility makes it more difficult to track terrorist organizations, to trace responsibility for terrorist acts and to bring those responsible to justice.

Honourable senators, that is exactly what we face in the days to come.

We were also told that the environment has changed. Terrorism makes use of the "technological treadmill." Agencies simply cannot keep up with the changes and with the resources that terrorists have today.

We looked at airport security. We questioned the turf battles between police and the issue of privatization and weighed that against the inconvenience and the dollars that may be necessary. Perhaps we did not dig deeply enough and we should review this area in the coming days. We did, however, hit the nail on the head as to what Canada needs to do in the future. Government threat-analysis capability must be beefed up. Adequate resources are needed. Manpower for strategic analysis is more important than our previous emphases.

Finally, our report pointed out that there can be no lessening of the responsibility of Parliament in the future. Parliament must, as a democratic institution, have an oversight role and a responsibility to its citizens.

We talked at great length in our committee hearings about the roles of immigrants and refugees. I was pleased to see this emphasis. We underscored the value of immigration, past, present and future, to Canadians. The ills of Canadian society were not disproportionately coming from the immigrant base of Canada. Therefore, whatever measures we take to ferret out those terrorists among us, we must be ever mindful that we do not target the valuable asset of those Canadians who have immigrated to Canada. Their contribution to our society, to

democracy and to our way of life is equally important to those, and with those, who were born on Canadian soil.

• (1720)

Honourable senators, we must encourage a reasoned assessment and response, but we have yet to know what that means. Today, many have proffered their opinions, and I certainly will take the time to reread the evidence of our honourable colleagues and of those in the other place. The issue is the root cause and the ability not to cause greater harm to individual civilians who, disproportionately we find out in most cases, are 70 per cent children and women. We must not use vengeance with vengeance.

Honourable senators, it is easy to defend human rights in times of peace and in times of prosperity. The true test of our democracy will be whether we can be ingenious, persistent and sacrificing enough to continue to defend those human rights, both for ourselves and for those around the world, as we fight the elements of terrorism. We cannot be cowed, but we must not become so bold that we change in the process, thereby yielding some measure of success to terrorists.

**Hon. Senators:** Hear, hear!

**Hon. Ione Christensen:** Honourable senators, with others in this chamber, I wish to convey my sympathy and that of all Yukoners, whom I represent, to all those who lost loved ones in this tragedy. A week ago today, on September 11, 2001, North Americans lost their innocence as they received a 911 wake-up call.

Most members in this chamber can go back in history and mark international milestones that have affected their lives and changed history. Last Tuesday, I called to my Ottawa office at 6 a.m. Yukon time, and my staff member said that there had been an accident at the World Trade Center in New York. She had the television on, and as we talked, the second plane came in. The reality of what was happening hit us.

I hung up the phone and turned on the television and, along with millions of others, watched as the horror unfolded — the towering inferno, the imploding of those enormous buildings, and the volcano-like smoke snaking through the streets. Our minds would not allow us to equate living human beings in the midst of all of that, and yet, they were there — living flesh and blood one moment and crushed in the rubble the next.

It had all seemed so distant — over 6,000 miles away. Then suddenly, in Whitehorse, Yukon, we had a 12-minute alert that a possible hijacked Korean airliner with a full load of passengers was inbound to our airport, accompanied by U.S. and Canadian fighter planes. It was not idle speculation: There had been a special signal received from that aircraft. Any feelings of detachment that we might have felt vanished, and we were on the front lines. We evacuated schools, closed down buildings and prepared quickly. Our outcome was a happy one, but the terror of New York and Washington still exists.



Did September 11, 2001, mark a change in history? Yes, profoundly it did. It brought home the smallness of our planet and shook us out of our complacency. Can such violence only happen in a far away country? No, it cannot, any longer.

Two words have been widely used during this heinous event: the "R" word and the "W" word. The first must be rejected outright and the other pursued with vigour for however long it takes. Revenge in itself is an act of terrorism. History has shown us that it has never been effective — not in Ireland, not in the Middle East and not now. War on terrorism can be effective, especially if it is vigorously pursued and joined with the other wars that we have already resolved to fight — war on poverty, crime, drugs and hunger. They are all intertwined, but they can be won, if the democratic nations of this world work together to make it happen.

In North America, we have been especially blessed, and we are strong in so many ways. Working with other nations around the world, we can lead the way by taking the moral high road and by looking outward to help others to share the freedom and the bounty that we too often take for granted. While Tuesday's devastation took place on American soil, that act of terrorism was made against the entire free world. Canada, as America's closest neighbour, must continue to do what all good neighbours do — provide compassion, solace, wise advice and help in whatever way we can to bring the perpetrators of this monstrous crime to account.

The world is a small place, honourable senators. Our task is not to protect our little corner, but to open opportunities to others. We cannot have winners and losers, only winners, or we will all become losers as was so horrifically demonstrated last week. Let us pray for a greater power to guide our nations in this hour of darkness.

**Hon. Senators:** Hear, hear!

**Hon. David Tkachuk:** Honourable senators, last Tuesday, over 5,000 people paid the ultimate price for just being where they were. Innocent lives taken mistakenly in a shootout in any city is cause for grief. However, on the morning of September 11, 2001, ordinary people, of which 100 or more may have been Canadians, were part of the most infamous videotape ever made. It was filled with all manner of horror, from the eerie scenes of bodies falling over 80 stories — too high to imagine because they were dwarfed by the television screens — to the 45 or so victims who became heroes as they hurled the plane, at about 500 miles per hour, into the ground in Somerset County, Pennsylvania, extinguishing themselves and their captors.

Honourable senators, I unabashedly love Americans. In the Prairies, towns like Humboldt, Saskatchewan, share their names with American cities such as Humboldt, California. Oil entrepreneurs and labourers arrived in waves after 1948 and the discovery of oil in Alberta. Tens of thousands of others in Saskatchewan call Phoenix, Arizona, their second home. Thousands of Americans come to the Prairies to hunt and to fish. They are our friends.

On behalf of the people of Saskatchewan, I join with the other Saskatchewan senators and all senators here to offer our deepest sympathy to the American people. May God grant them strength in their endeavour to seek out the evil perpetrators of these criminal acts of murder and terrorism. May God grant their President wisdom in his pursuit of justice.

The Prime Minister, last Friday, quoted Martin Luther King: "In the end, it is not the words of your enemies that you remember, it is the silence of your friends." The Prime Minister continued and said, "Mr. Ambassador, as your fellow Americans grieve and rebuild, there will be no silence from Canada."

There will be no silence from our side during this terrible time. I will be supportive of our government's efforts to assist the United States and to fulfil our obligations under NATO. I and all my colleagues will urge our government to secure our citizens.

• (1730)

There is no greater responsibility of government, after all, or of parliamentarians than securing sovereignty. When citizens lose the belief that they are secure, they no longer believe they are sovereign.

Honourable senators, what could we do now? We could enhance our border patrols. We could have a moratorium on the granting of refugee status. We could detain refugees until such time as they are granted Canadian protection, a practice followed in Australia. We could ban all groups involved in domestic and trans-national terrorism. We could speed the passage of money necessary to seek out terrorist cells in Canada. We could assist and cooperate with the United States to pursue, deport or arrest these people. We could cooperate fully in the passage of bills allocating increased budgets to our Armed Forces and Coast Guard.

We should demand a statement of readiness by our Minister of National Defence to the legislatures in both Houses. A committee of the Senate should assess the work on security done by honourable senators in this place and make recommendations for action or legislation.

Let there be no doubt among us, this was an act of war. Let us govern ourselves accordingly.

**Hon. Senators:** Hear, hear!

**Hon. Landon Pearson:** Honourable senators, I, too, wish to throw my full support behind our Senate resolution. I remember with sorrow and compassion the lives lost last week and the families and friends who were left behind to mourn for them. Let us both grieve for and with them and take time to reflect on what we must now do.

This event is a moral atrocity. The cold-hearted killing of well over 5,000 people by a small number of well-educated and intensely motivated young men who used their training and skills to transform civilian airplanes full of innocent and horrified passengers into guided missiles striking at the heart of America was a particularly gruesome fusion of cruelty and technology.

I will leave to others more qualified than I the task of addressing the clear need for security and intelligence. Instead, I will pose the questions that have been troubling me since I watched the towers tumble to dust.

How could anyone form a human response to this terrible event? How can we prevent such an attack on the symbols of American power from ever recurring? How can we ensure that the cultural symbols of the U.S., like Disneyland and Hollywood, are not the next targets? How can we ensure that our own values of tolerance, fairness and respect for human rights do not disintegrate under the pressure for retaliation and for closing our borders to every potential threat, real or imagined? How can we prevent our own minds from closing to the events of the past?

Honourable senators, we must understand why and how these young men became pure concentrations of evil. If we do not, we will never free ourselves or others from the fear and terror that they have created.

Last week's events were unique in many ways; however, the capacity of human beings to inflict unspeakable horrors on other human beings is not new. Most of us in this chamber have lived through dark stretches of human history, from the Holocaust to the genocide in Rwanda. Each period has been marked by the profound failure of the moral imagination. It is a failure of the capacity in perpetrators and bystanders alike to see what is humanly important. Whether blinded by distance, tribalism or ideology, there were millions in the 20th century who behaved abominably to other human beings, and millions who failed to protect their victims.

Honourable senators, what should we do to nurture the moral so that human beings cease to inflict such pain on one another, cease to even consider it? As the terrorists who perpetrated last week's crimes demonstrate, education has great power. It can serve destructive ends just as well as beneficial ones.

There is no doubt that the attack on America was brilliantly conceived by sophisticated and educated minds. However, those minds were so darkened by hatred and ideology that they were unable to see the human reality within their targets.

Honourable senators, at this time of crisis, each one of us must find his or her own human response and act in the ways that we know best. I work for and with children. I will redouble my efforts to promote their rights in all situations so that they will not grow up to hate others. I will also try to ensure that the education they receive will nurture a moral identity that recognizes the worth of every human being, no matter how strange or different.

This is not an easy task, nor will it be a brief one. However, the proliferation of human rights agreements that have evolved under the aegis of the UN since the Second World War, culminating in 1989 with the Convention on the Rights of the Child and its subsequent protocol, is a real cause for hope.

This week, I was supposed to be in New York at the UN special session on children. That meeting has been postponed,

but not for long. Its outcome document, "A World Fit for Children," which we are still negotiating, will provide us with good guidelines for action and perhaps restore the moral compass for children. In a world fit for children, there would be no terror.

**Hon. Senators:** Hear, hear!

[Translation]

**Hon. Gérald-A. Beaudoin:** Honourable senators, in these difficult times, we would do well to remember this thought by the great philosopher, Blaise Pascal:

Man is only a reed, the weakest thing in nature; but he is a thinking reed.

The 20th century was a century of great violence, but it was also the century in which the United Nations was established and the Universal Declaration of Human Rights drafted.

At the dawn of the 21st century, we must remind ourselves of the fragility of life, civilization and our most precious possessions.

The great and friendly nation next door has just been the victim of indescribable horror. We offer our sympathies from the bottom of our heart.

All action and reaction must be guided by serious thought. We are not starting from scratch. We have established great international structures and international public law. We must make appropriate use of them, and more than ever now for the greater good of humanity.

**Hon. Laurier L. LaPierre:** Honourable senators, I would have preferred to make my initial statement in this august chamber at some other point in time.

[English]

However, circumstances make it necessary to participate in this discussion because I agree with the motion that has been presented and seconded, and that I hope we shall pass. I agree with it because the word "war" is not mentioned in it. I agree with it because no one has sought the help of some deity that no one can understand. I think that God must be the busiest person in the universe, attempting to explain to everyone what it is that he did, if he did it.

I find that all this rhetoric has little foundation in reality. I hate when people say to me that the free world has been attacked by the events, tragic as they are, in New York. It is not only the free world that has been attacked, it is every single human being on this planet that has been attacked.

**Hon. Senators:** Hear, hear!

[Translation]

**Senator LaPierre:** The civilized world was not attacked, as the resolution says in French.



[English]

I hope that it will be changed.

[Translation]

The great moral values of the world as a whole were annihilated at that point in human history.

[English]

I must also tell you that I am extremely sad that, for circumstances that I fail to understand, the face of terrorism is an Islamic child, an Islamic man or an Islamic woman, as if terrorism were concentrated in the Islamic world. The perpetrators of this present evil have —

[Translation]

— overwhelmed the whole of humanity with their violence and determination.

• (1740)

[English]

Terrorism is a collective word for people who use terror as an instrument of political pursuit. That is all it is. There is terror in Spain. Do we pass motions? There is terror in Northern Ireland when the children only recently were abused by violence and indignities on their way to school. There is terror in the old Yugoslavia, where, people are killing free people to achieve political ends. There is terror in Colombia. There is terror in large parts of Africa and in large parts of South America.

I say to you, honourable senators, that terror exists and terrorism exists. It is not by launching a holy war that we will resolve the terrorism that afflicts us.

Over the past few days, I have read so much negative press about my country that I was — how shall I say — annoyed. I was annoyed essentially because my country was being denigrated day after day by pundits of all sorts about masses of terrorists seeking out others largely because we are open and consider that the Charter of Rights applies to someone who seeks refuge in our country because that person is being afflicted in his or her country. I find good in the human spirit, and this is of great value in our nation. I want that to be preserved.

I am overwhelmed by the fact that now I must arm myself to the teeth to be ready for someone I do not even know exists, wherever they may be and whatever they may do. I am saying that the price of arming ourselves to the teeth, as is being requested, that the price of harmonization, as is being requested, that the price of putting marshals practically everywhere, in every home and on every street, as is being requested, will mean that we will have to shift masses and masses of money. Away from what? Away from the poor woman and the poor man with children. Away from children who do not have a proper education. We will have to abandon our magnificent policy on

Aboriginal people that the government has undertaken in our name and to which we subscribe, although the time has come to repair the ravages of history and to make these people, these children, capable of living magnificent lives like the rest of us. The price of such policies will mean a decrease in our foreign aid.

I beg of you, honourable senators, if we are to have a war against terrorism, let us have a war against ourselves. Racism is terrorism. There are Muslim women in this country who are afraid to go out on the street because someone will probably beat them up or spit in their faces. In my country! In my country! I do not want that. That is a form of terrorism. If I am to wage war, I will wage war in my own country, against all those who spit in the face of the Indians, the First Peoples, who consider them to be drunks and everything else, who have all kinds of prejudices and all kinds of manifestations of hatred against a people who are not of their same colour or religion. That is terrorism!

Honourable senators, I do not want a war. I want my little grandchild, who was crying this afternoon, to grow up in a world of love and in a world of harmony, where men and women help each other, particularly the children of the planet, to achieve the safe havens that we all want.

This is not a war like the other wars because it is a war of the spirit.

[Translation]

With this awareness, we will not tolerate violence.

[English]

We shall not tolerate violence, whether it be in our hearts, in our society or in societies of others. We stand for these things in this country. We have done so now for hundreds and hundreds of years, and we shall continue to do so.

**Hon. Elizabeth Hubley:** Honourable senators, in support of this motion and quite simply on behalf of the people of Prince Edward Island, I wish to express our profound feelings of sadness, confusion, anger and loss, feelings shared by all Canadians.

Our sympathies go to our American neighbours as they deal with the tragic events of September 11, 2001. We have attended memorial services, church services, held personal prayer vigils, donated blood and offered financial support, as all peoples of the world have done, in an effort to support our friends in the United States at this difficult time.

These efforts, as great as they are, seem to pale in light of these unconscionable acts and the extent of the losses inflicted. As the world now awaits the next step, we pray that the United States of America will continue to show the world the true depth of its courage and resolve in seeking a just and humane solution to this terrible attack on its people and ultimately on all the people of the world.



**Hon. Anne C. Cools:** Honourable senators, I join senators on both sides of this chamber in supporting this initiative, which began with the Prime Minister of Canada and was brought forward to this chamber by our government leader, Senator Carstairs.

I have a few things I wish to say, but I should first like to bring some comfort to our new senator, Senator LaPierre.

Senator LaPierre, I am pretty certain that the Prime Minister and Senator Carstairs are fully aware and understand totally the difference between horrific and terrible individual acts of racism and murder and the events that unfolded in New York City and in Washington, D.C. I can assure the honourable senator, because I was in the United States of America during this time, that those members of the Armed Forces and all of those young men and women who are ready and on alert know the difference between, say, a lynching, if they are Black, and what happened September 11, 2001. There is a difference, and perhaps another day, another time, I will attempt to persuade my honourable friend of the difference.

However, today, this motion is to support our government and our leadership in sending support to the Americans. For myself, I send strength and support to our neighbours, the Americans, at this time of grief and sorrow. I especially uphold in my prayers the afflicted families of all those who were injured and who perished, the families of all the employees, rescue workers and even the passersby. To all of those who are still active in the rescue operations, I send my strength and my great respect and esteem in their difficult, dangerous and, I would admit, tedious work.

Honourable senators, as a quick review of some of the facts as they stand in today's news reports, we are dealing here with a phenomenon — the hijacking of four different airplanes. All of those airplanes were flown and crashed. All passengers and all crew were killed on impact. Two of those planes were crashed deliberately and wilfully into the twin towers of the World Trade Center in New York City, one was flown and crashed into the Pentagon in Washington, D.C., and one crashed into a field in Pennsylvania. It did not hit a target. It is believed that this airplane was headed for the White House, but some male passengers, it is said, challenged the hijackers and tried to overpower them.

• (1750)

Currently, the number of people missing in New York is 5,422. We all know that many thousands of people normally worked in the World Trade Center. We are told that in Washington, D.C., 91 people are missing and 97 are dead. I read just a few moments ago that 218 people are confirmed dead in New York City and that hope is quickly being lost for the rest of the missing there. Mayor Rudolph Giuliani of New York City has said that as every minute passes, hope is fading for those people.

Honourable senators, the attacks in these two cities have left us stunned and shaken. The enormity of the loss of life and

destruction of property is greater than anything our minds can countenance. I do not think we have the ability to process what has happened. The massiveness of the attacks — conceived, planned and executed with unflinching, cold-blooded nerve to fulfil the goal of terror, pain, suffering, death and destruction — is truly diabolical, a cruel, cold-blooded plan with a terrible result.

Honourable senators, I was in the United States during these terrible events. I was stranded for several days in San Diego, California, far away from my home. It seemed to me to be an eternity and was a very difficult time indeed. I had been a keynote speaker at a conference organized by the National Centre for Strategic Non-Profit Planning and Community Leadership. Its president, Dr. Jeffrey Johnson, and its conference chairperson, Charlene Meeks, were stellar as they proceeded with the conference meetings. All participants of the conference joined hands in prayer that fateful Tuesday morning September 11, 2001, at 9 a.m. Pacific time. They joined their hands and prayed, as did most Americans from coast to coast.

Over those days, my experience with those Americans made their suffering mine, as conference participants scrambled for information about relatives and friends, and as I struggled to get back to Ottawa.

Honourable senators, the personal visit of United States President George W. Bush to the sites of the attacks was greatly welcomed and very needed by the families of the victims and by the rescue workers. President Bush's very presence there provided them with moral, emotional and spiritual strength. His visit was seen as an affirmation of the ancient concept of the leader as the servant of his followers and the societal dependence on the force of the moral character and the strength of the leader. Americans drew personal comfort from President Bush's very person and from his prayers.

At this moment, there is great uncertainty in the United States of America. I again offer them my affection, my love and my prayers. I ask them to proceed carefully and cautiously.

I should like to read to you a poem that some of the older members of the chamber will recognize. This poem was read by King George VI, our own King, in his Christmas broadcast in 1939, at a time of great uncertainty in Canadian and British history. In May and June of 1939, King George and Queen Elizabeth, the current Queen Mother, had visited Canada. That visit was apparently conceived by Prime Minister William Lyon Mackenzie King and Winston Churchill as a way to bring the King to North America to meet with the then President of the United States of America Franklin D. Roosevelt.

The declaration of war had been made around September, and in his Christmas Day broadcast, King George VI immortalized these words written by M. Louise Haskins. The poem is entitled *God Knows* and was published in 1908 in a book entitled *The Gate of the Year*. I offer this poem to all Americans — to President Bush, all the families and all the rescue workers. It reads in part:

And I said to the man who stood at the gate of the year:

"Give me a light that I may tread safely into the unknown."

And he replied:

"Go out into the darkness and put your hand into the Hand of God.

That shall be to you better than light and safer than a known way."

So I went forth, and finding the Hand of God, trod gladly into the night.

And He led me towards the hills and the breaking of day in the lone East....

Honourable senators, this event is of such enormity that it is beyond our comprehension. The best thing I can say to President Bush, Mayor Giuliani and all those involved is "God bless America."

[Translation]

**Hon. Marcel Prud'homme:** Honourable senators, politicians often say that they had not intended to take part in a debate. And everyone smiles. For reasons that will be clear to you from the brevity of my remarks, I did not intend to take part in this debate.

I, too, wish to express my sincere sympathy to our friends and neighbours our genuine in their suffering. I wish them courage and assure them that our prayers are with them.

• (1800)

Honourable senators, yesterday, I spoke with journalists from Radio-Canada, the *Montreal Gazette*, and *The Globe and Mail*. My comments were very hard-hitting. None of them were reported, although I would have liked to see a few of them make the news.

I said that it made me feel safe to know that right now the country is being governed by a man I have known since 1953. Without wishing to offend him, I would say that he is someone who does not lack for plain down-to-earth good sense. I am talking about the Prime Minister of Canada, Jean Chrétien. I am confident that this lifelong friend will lead Canada with wisdom and intelligence. I would be very surprised if he were to do otherwise.

I wish to add my comments to those of my colleagues. You know the passion with which I could speak because, when I speak to you about Canada, I very nearly get carried away. Today, the same passion is there, but the energy level is not the same.

Senator LaPierre's comments were very moving, and I believe that the new senators introduced here today are just as talented and will be able to guide us in our reflection.

We all need inspiration and, as privileged and spoiled senators, we have a responsibility. We must justify to Canada and the world the trust the public showed in us when it appointed us senators.

I would urge you to reread the comments made by Senator Roche, for they are worth a careful second look. Until his death, my father, who was a physician, provided me with excellent guidance. He was a philosopher, who read works in the original Greek and who knew of my interest in international matters. He saw all this coming and told me that one was not born a terrorist but became one.

[English]

**The Hon. the Speaker:** Honourable senators, the clock indicates six o'clock. Is it your pleasure that I not see the clock?

**Hon. Senators:** Agreed.

**Senator Prud'homme:** Thank you, honourable senators. I will not abuse; I know the rule well.

[Translation]

My father also told me: "Try to define words as well." Some people here are products of Quebec's "écoles classiques," where we learned to trace words back to their roots. I would like to see the words used in this debate — for instance, the word "terrorist" which is being used right, left and centre — clearly defined.

Hon. senators are all aware of my involvement in a cause, the "Prud'homme cause" they call it.

[English]

I want to put on the record that I am not a Québécois, I am not a Muslim, I am not a Palestinian, I am not an Israeli. I am a Canadian.

[Translation]

That I said in French.

[English]

A Canadian should never hesitate to stand up for what is right and go to the root of the problems being faced by humanity. In 1970, 32 years ago, and in 1956 at the University of Ottawa, I did my part in trying to get to the root of the problem. I am talking about only one part of the world, the Middle East, which I know well. Nothing worse could have been happening to a member of the House of Commons or the Senate. I have kept silent. I will continue.

Honourable senators, I have a group of friends who are putting together the worst of what has been printed about me for the last 35 years. I have never reacted, because I believe it is not the way to understand what is happening to humanity. When I hear suggestions that we must direct billions of dollars toward this and toward that, \$40 billion right away for arms, I only dream of what it would be like if part of these billions had been directed at helping people get back their dignity.



Honourable senators, everyone on earth wants the same thing that we enjoy here. If we do not understand that, we do not know the meaning of humanity. We do not know what the term "human race" means. Needless to say, we will fall in a state of paranoia. Guilty people must be found. Guilty people must be punished. That is clear. However, we must not lose our minds in scaring people and dividing people.

Our new friend, Senator LaPierre, talked about a woman who was not well treated. I know a senator who was told by another senator recently, "Boy, have you seen what your friend did?" To me, it is as bad as a slap in the face if I were black, or if I were an Indian, or if I were a Hindu, or if I were a Sikh. One must learn to be tough. One must learn to take it one's first and prime motivation in life is to bring justice to all without excluding people, to make Canadians and others understand.

[Translation]

We do not have the right to ignore the major issues of the day when they cannot do otherwise than to lead to other, worse, tragedies than those our American neighbours to the South have experienced.

[English]

I will conclude by quoting my esteemed colleague in his speech. It is sometimes more difficult to understand a quote when it is taken out of context, but it will be food for thought for these new pages, who come from around Canada, as they have always done. He said, in part: "For tomorrow's terrorists are the children in today's refugee camps."

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Is the house ready for the question?

It was moved by the Honourable Senator Carstairs, seconded by the Honourable Senator Lynch-Staunton:

That the Senate express its sorrow and horror at the senseless and vicious attack on the United States of America on September 11, 2001;

That it express its heartfelt condolences to the families of the victims and to the American people; and

That it reaffirm its commitment to the humane values of free and democratic society and its determination to bring to justice the perpetrators of this attack on these values and to defend civilization from any future terrorist attacks.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

[Translation]

MOTION TO CONVEY RESOLUTION TO CONGRESS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I move, seconded by Senator Kinsella, that the Speaker convey the resolution adopted unanimously today by the Senate of Canada, together with the name of every member of the Senate, to the Congress of the United States of America.

[English]

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Marcel Prud'homme:** Honourable senators, I have made my views known. They were raised by the Honourable Senator LaPierre. Some honourable senators would strongly suggest to the Leader of the Government in the Senate that she ensure that the French text of this resolution corresponds exactly with the meaning of the English that was just read.

• (1810)

We have difficulties, and I have expressed them. It is not necessary to repeat what Senator LaPierre said. I know many senators who have suddenly said, "Oh my God, in French it does not mean the same thing."

We agree with what is written in English. We will all sign it. We will sign the French text, too. However, we would like linguists to ensure that it corresponds exactly with the meaning. I tell honourable senators that it could open debate eventually that could lead to some misunderstanding which we will have to explain. My father always said that when you start to explain, you are lost.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank Senator Prud'homme for his intervention. I will speak to the various parties involved to ensure that we try to get the identical language.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.



[Translation]

### ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, September 19, 2001, at 1:30 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I move that the Senate do now adjourn and that all items on the Order Paper and Notice Paper that have not been reached stand in their place.

The Senate adjourned until Wednesday, September 19, 2001, at 1:30 p.m.



## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate



**THE SPEAKER**

THE HONOURABLE DANIEL P. HAYS

**THE LEADER OF THE GOVERNMENT**

THE HONOURABLE SHARON CARSTAIRS, P.C.

**THE LEADER OF THE OPPOSITION**

THE HONOURABLE JOHN LYNCH-STAUNTON

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**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

**DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES**

GARY O'BRIEN

**LAW CLERK AND PARLIAMENTARY COUNSEL**

MARK AUDCENT

**USHER OF THE BLACK ROD (ACTING)**

BLAIR ARMITAGE

**THE MINISTRY**

According to Precedence

(September 18, 2001)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Brian Tobin	Minister of Industry
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Minister of Foreign Affairs
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Martin Cauchon	Minister of National Revenue and Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. Lyle Vanciel	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Fisheries and Oceans
The Hon. Ronald J. Duhamel	Minister of Veterans Affairs and Secretary of State (Western Economic Diversification) (Francophonie)
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Maria Minna	Minister for International Cooperation
The Hon. Elinor Caplan	Minister for Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Gilbert Normand	Secretary of State (Science, Research and Development)
The Hon. Denis Coderre	Secretary of State (Amateur Sport)
The Hon. Rey Pagtakhan	Secretary of State (Asia-Pacific)

## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(September 18, 2001)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Winnipeg, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.



## ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Chestermere, Alta.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Sheila Finestone, P.C.	Montarville	Montreal, Que.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Raymond C. Setlakwe	The Laurentides	Thetford Mines, Que.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Jim Tunney	Ontario	Grafton, Ont.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.

## SENATORS OF CANADA

## ALPHABETICAL LIST

(September 18, 2001)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérard-A.	Rigaud	Hull, Que.	PC
Bolduc, Roch	Gulf	Sainte-Foy, Que.	PC
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland	St. John's, Nfld.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.	PC
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finestone, Sheila, P.C.	Montarville	Montreal, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jeremiah S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib
Johnson, Janis G.	Winnipeg-Interlake	Winnipeg, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib

## SENATORS OF CANADA

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Léger, Viola	New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauzon	Quebec, Que.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Setlakwe, Raymond C.	The Laurentides	Thetford Mines, Que.	Lib
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Taylor, Nicholas William	Sturgeon	Chestermere, Alta.	Lib
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Tunney, Jim	Ontario	Grafton, Ont.	Lib
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.	Ind



# SENATORS OF CANADA

## BY PROVINCE AND TERRITORY

(September 18, 2001)

### ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jeremiah S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
19 Francis William Mahovlich	Toronto	Toronto
20 Vivienne Poy	Toronto	Toronto
21 Isobel Finnerty	Ontario	Burlington
22 Jim Tunney	Ontario	Grafton
23 Laurier L. LaPierre	Ontario	Ottawa
24		

## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber .....	Victoria .....	Westmount
2 Charlie Watt .....	Inkerman .....	Kuujuaq
3 Pierre De Bané, P.C. ....	De la Vallière .....	Montreal
4 Roch Bolduc .....	Gulf .....	Sainte-Foy
5 Gérard-A. Beaudoin .....	Rigaud .....	Hull
6 John Lynch-Staunton .....	Grandville .....	Georgeville
7 Jean-Claude Rivest .....	Stadacona .....	Quebec
8 Marcel Prud'homme, P.C. ....	La Salle .....	Montreal
9 W. David Angus .....	Alma .....	Montreal
10 Pierre Claude Nolin .....	De Salaberry .....	Quebec
11 Lise Bacon .....	De la Durantaye .....	Laval
12 Céline Hervieux-Payette, P.C. ....	Bedford .....	Montreal
13 Shirley Maheu .....	Rougemont .....	Ville de Saint-Laurent
14 Lucie Pépin .....	Shawinigan .....	Montreal
15 Marisa Ferretti Barth .....	Repentigny .....	Pierrefonds
16 Serge Joyal, P.C. ....	Kennebec .....	Montreal
17 Joan Thorne Fraser .....	De Lorimier .....	Montreal
18 Aurélien Gill .....	Wellington .....	Mashteuiatsh, Pointe-Bleue
19 Sheila Finestone, P.C. ....	Montarville .....	Montreal
20 Raymond C. Setlakwe .....	The Laurentides .....	Thetford Mines
21 Yves Morin .....	Lauzon .....	Quebec
22 Jean Lapointe .....	Saurel .....	Magog
23 .....	.....	.....
24 .....	.....	.....

## SENATORS BY PROVINCE—MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9		
10		

## NEW BRUNSWICK—10

THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	New Brunswick	Moncton
8		
9		
10		

## PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4		



## SENATORS BY PROVINCE—WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak	Manitoba	Winnipeg
2 Janis G. Johnson	Winnipeg-Interlake	Winnipeg
3 Terrance R. Stratton	Red River	St. Norbert
4 Sharon Carstairs, P.C.	Manitoba	Victoria Beach
5 Richard H. Kroft	Manitoba	Winnipeg
6		

## BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Jack Austin, P.C.	Vancouver South	Vancouver
3 Pat Carney, P.C.	British Columbia	Vancouver
4 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
5 Ross Fitzpatrick	Okanagan-Similkameen	Kelowna
6 Mobina S.B. Jaffer	British Columbia	North Vancouver

## SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 A. Raynell Andreychuk	Regina	Regina
3 Leonard J. Gustafson	Saskatchewan	Macoun
4 David Tkachuk	Saskatchewan	Saskatoon
5 John Wiebe	Saskatchewan	Swift Current
6		

## ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Nicholas William Taylor	Sturgeon	Chestermere
4 Thelma J. Chalifoux	Alberta	Morinville
5 Douglas James Roche	Edmonton	Edmonton
6 Tommy Banks	Alberta	Edmonton

## SENATORS BY PROVINCE AND TERRITORY

## NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6		

## NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

## NUNAVUT—1

THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

## YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

## ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of September 18, 2001)

\*Ex Officio Member

## ABORIGINAL PEOPLES

**Chair:** Honourable Senator Chalifoux**Deputy Chair:** Honourable Senator Johnson**Honourable Senators:**

Carney	Christensen,	Johnson,	Rompkey,
*Carstairs (or Robichaud)	Cochrane,	*Lynch-Staunton, (or Kinsella)	Sibbeston,
Chalifoux,	Gill,	Pearson,	St. Germain,
	Hubley,		Tkachuk.

*Original Members as nominated by the Committee of Selection*

Carney, \*Carstairs (or Robichaud), Chalifoux, Christensen, Cochrane, Cordy, Gill,  
Johnson, \*Lynch-Staunton (or Kinsella), Pearson, Rompkey, Sibbeston, Tkachuk, Wilson.

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SUBCOMMITTEE ON ABORIGINAL ECONOMIC DEVELOPMENT IN RELATION  
TO NORTHERN NATIONAL PARKS**Chair:** Honourable Senator Christensen**Deputy Chair:** Honourable Senator Cochrane**Honourable Senators:**

*Carstairs (or Robichaud)	Christensen,	Johnson,	Sibbeston.
Chalifoux,	Cochrane,	*Lynch-Staunton, (or Kinsella)	

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## AGRICULTURE AND FORESTRY

**Chair:** Honourable Senator Gustafson**Deputy Chair:** Honourable Senator Wiebe**Honourable Senators:**

*Carstairs (or Robichaud),	Gill,	*Lynch-Staunton (or Kinsella),	Tkachuk,
Chalifoux,	Gustafson,	Oliver,	Tunney,
Fairbairn,	Hubley,	Stratton,	Wiebe.
	LeBreton,		

*Original Members as nominated by the Committee of Selection*

\*Carstairs (or Robichaud), Chalifoux, Fairbairn, Fitzpatrick, Gill, Gustafson, LeBreton,  
\*Lynch-Staunton (or Kinsella), Milne, Oliver, Stratton, Taylor, Tkachuk, Wiebe.

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**BANKING, TRADE AND COMMERCE**

<b>Chair:</b>	<b>Honourable Senator Kolber</b>	<b>Deputy Chair:</b>	<b>Honourable Senator Tkachuk</b>
<b>Honourable Senators:</b>			
Angus,	Hervieux-Payette,	*Lynch-Staunton (or Kinsella),	Poulin,
*Carstairs (or Robichaud),	Kelleher,	Meighen,	Setlakwe,
Furey,	Kolber,	Oliver,	Tkachuk,
	Kroft,		Wiebe.

*Original Members as nominated by the Committee of Selection*

Angus, \*Carstairs (or Robichaud), Furey, Hervieux-Payette, Kelleher, Kolber, Kroft,  
\*Lynch-Staunton (or Kinsella), Meighen, Oliver, Poulin, Setlakwe, Tkachuk, Wiebe.

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**DEFENCE AND SECURITY**

<b>Chair:</b>	<b>Honourable Senator Kenny</b>	<b>Deputy Chair:</b>	<b>Honourable Senator Forrestall</b>
<b>Honourable Senators:</b>			
Atkins,	Cordy,	*Lynch-Staunton (or Kinsella),	Pépin,
*Carstairs (or Robichaud),	Forrestall,	Meighen,	Rompkey,
	Kenny,		Wiebe.

*Original Members as nominated by the Committee of Selection*

Atkins, \*Carstairs (or Robichaud), Cordy, Forrestall, Hubley, Kenny,  
\*Lynch-Staunton (or Kinsella), Meighen, Pépin, Rompkey, Wiebe.

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**VETERANS AFFAIRS****(Subcommittee of Defence and Security)**

<b>Chair:</b>	<b>Honourable Senator Meighen</b>	<b>Deputy Chair:</b>	<b>Honourable Senator Wiebe</b>
<b>Honourable Senators:</b>			
Atkins,	Kenny,	*Lynch-Staunton (or Kinsella),	Meighen,
*Carstairs (or Robichaud),		Pépin,	Wiebe.

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**ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES****Chair: Honourable Senator Taylor****Deputy Chair: Honourable Senator Spivak****Honourable Senators:**

Adams,	Christensen,
Banks,	Cochrane,
Buchanan,	Eyton,
*Carstairs (or Robichaud),	Finnerty,

Kelleher,	Sibbeston,
Kenny,	Spivak,
*Lynch-Staunton (or Kinsella),	Taylor,

***Original Members as nominated by the Committee of Selection***

*Banks, Buchanan, \*Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty, Kelleher, Kenny, \*Lynch-Staunton (or Kinsella), Sibbeston, Spivak, Taylor, Watt.*

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**FISHERIES****Chair: Honourable Senator Comeau****Deputy Chair: Honourable Senator Cook****Honourable Senators:**

Adams,	Chalifoux,
Callbeck,	Comeau,
Carney,	Cook,
*Carstairs (or Robichaud),	

*Lynch-Staunton (or Kinsella),	Moore,
Mahovlich,	Robertson,
Meighen,	Watt.

***Original Members as nominated by the Committee of Selection***

*Adams, Callbeck, \*Carstairs (or Robichaud), Carney, Chalifoux, Comeau, Cook, \*Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Molgat, Moore, Robertson, Watt.*

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**FOREIGN AFFAIRS****Chair: Honourable Senator Stollery****Deputy Chair: Honourable Senator Andreychuk****Honourable Senators:**

Andreychuk,	*Carstairs (or Robichaud),
Austin,	Corbin,
Bolduc,	De Bané,
Carney,	

Di Nino,	*Lynch-Staunton (or Kinsella),
Grafstein,	Setlakwe,
Graham,	Stollery,
Losier-Cool,	

***Original Members as nominated by the Committee of Selection***

*Andreychuk, Austin, Bolduc, Carney, \*Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein, Graham, Losier-Cool, \*Lynch-Staunton (or Kinsella), Poulin, Stollery.*

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## HUMAN RIGHTS

Chair: Honourable Senator Andreychuk

Deputy Chair: Honourable Senator Finestone

Honourable Senators:

Andreychuk,	Cochrane,	Kinsella,	Poy,
Beaudoin,	Ferretti Barth,	*Lynch-Staunton (or Kinsella),	Watt,
*Carstairs (or Robichaud),	Finestone,		Wilson.

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Beaudoin, \*Carstairs (or Robichaud), Ferretti Barth, Finestone, Kinsella, \*Lynch-Staunton (or Kinsella), Oliver, Poy, Watt, Wilson.*

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## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Kroft

Deputy Chair: Honourable Senator

Honourable Senators:

Atkins	De Bané,	Kenny,	Milne,
Austin,	Doody,	Kroft,	Murray,
*Carstairs (or Robichaud),	Forrestall,	*Lynch-Staunton (or Kinsella),	Poulin,
Comeau,	Furey,	Maheu,	Stollery.
	Gauthier,		

*Original Members as nominated by the Committee of Selection*

*Austin, \*Carstairs (or Robichaud), Comeau, De Bané, DeWare, Doody, Forrestall, Furey, Gauthier, Kenny, Kroft, \*Lynch-Staunton (or Kinsella), Maheu, Milne, Murray, Poulin, Stollery.*

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## LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Milne

Deputy Chair: Honourable Senator Beaudoin

Honourable Senators:

Andreychuk,	*Carstairs (or Robichaud),	Grafstein,	Moore,
Beaudoin,		Joyal,	Nolin,
Buchanan,	Cools,	*Lynch-Staunton (or Kinsella),	Pearson,
	Fraser,	Milne,	Rivest.

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Atkins, Beaudoin, Buchanan, \*Carstairs (or Robichaud), Cools, Fraser, Grafstein, Joyal, \*Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson.*

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## LIBRARY OF PARLIAMENT (Joint)

Chair: Honourable Senator Bryden

Deputy Chair:

Honourable Senators:

Beaudoin,

Cordy,

Oliver,

Poy.

Bryden,

*Original Members agreed to by Motion of the Senate**Beaudoin, Bryden, Cordy, Oliver, Poy.*

## NATIONAL FINANCE

Chair: Honourable Senator Murray

Deputy Chair: Honourable Senator Finnerty

Honourable Senators:

Banks,

Comeau,

\*Lynch-Staunton  
(or Kinsella),

Murray,

Bolduc,

Cools,

Mahovlich,

Stratton,

\*Carstairs

Doody,

Moore,

Tunney.

(or Robichaud),

Ferretti Barth,

*Original Members as nominated by the Committee of Selection**Banks, Bolduc, \*Carstairs (or Robichaud), Cools, Doody, Finnerty, Ferretti Barth, Hervieux-Payette, Kinsella, Kirby, \*Lynch-Staunton (or Kinsella), Mahovlich, Murray, Stratton.*

## OFFICIAL LANGUAGES (Joint)

Chair: Honourable Senator Maheu

Deputy Chair:

Honourable Senators:

Beaudoin,

Gauthier,

Maheu,

Setlakwe,

Fraser,

Losier-Cool,

Rivest,

Simard.

*Original Members agreed to by Motion of the Senate**Bacon, Beaudoin, Fraser, Gauthier, Losier-Cool, Maheu, Rivest, Setlakwe, Simard.*

### PRIVILEGES, STANDING RULES AND ORDERS

**Chair:** Honourable Senator Austin  
**Honourable Senators:**

Andreychuk,	Di Nino,
Austin,	Gauthier,
Bryden,	Grafstein,
*Carstairs (or Robichaud),	Joyal,

**Deputy Chair:** Honourable Senator Stratton

Kroft,	Pitfield,
Losier-Cool,	Poulin,
*Lynch-Staunton (or Kinsella),	Robertson,
Murray,	Rossiter,
	Stratton.

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Austin, Bryden, \*Carstairs (or Robichaud), DeWare, Di Nino, Gauthier, Grafstein, Hervieux-Payette, Joyal, Kroft, Losier-Cool, \*Lynch-Staunton (or Kinsella), Murray, Poulin, Rossiter, Stratton.*

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### SCRUTINY OF REGULATIONS (Joint)

**Chair:** Honourable Senator Hervieux-Payette  
**Honourable Senators:**

Bryden,	Finestone,
	Hervieux-Payette,

**Deputy Chair:**

Kinsella,	Nolin.
Moore,	

*Original Members agreed to by Motion of the Senate*

*Bacon, Bryden, Finestone, Hervieux-Payette, Kinsella, Moore, Nolin.*

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### SELECTION

**Chair:** Honourable Senator  
**Honourable Senators:**

Austin,	Corbin,
*Carstairs (or Robichaud),	Fairbairn,
	Graham,

**Deputy Chair:**

Kinsella,	Robertson,
LeBreton,	Rompkey,
*Lynch-Staunton (or Kinsella),	Stratton.

*Original Members agreed to by Motion of the Senate*

*Austin, \*Carstairs (or Robichaud), Corbin, DeWare, Fairbairn, Graham, Kinsella, LeBreton, \*Lynch-Staunton (or Kinsella), Mercier, Murray.*

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### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

<b>Chair:</b>	<b>Honourable Senator Kirby</b>	<b>Deputy Chair:</b>	<b>Honourable Senator LeBreton</b>
<b>Honourable Senators:</b>			
Callbeck,	Cordy,	Kirby,	Pépin,
*Carstairs (or Robichaud),	Fairbairn,	LeBreton,	Roberston,
Cook,	Graham,	*Lynch-Staunton (or Kinsella),	Roche.
	Keon,		

*Original Members as nominated by the Committee of Selection*

*Callbeck, \*Carstairs (or Robichaud), Cohen, Cook, Cordy, Fairbairn, Graham, Johnson, Kirby, LeBreton, \*Lynch-Staunton (or Kinsella), Pépin, Robertson, Roche.*

### ON THE PRESERVATION AND PROMOTION OF A SENSE OF CANADIAN COMMUNITY

(Subcommittee of Social Affairs, Science and Technology)

<b>Chair:</b>	<b>Honourable Senator</b>	<b>Deputy Chair:</b>	<b>Honourable Senator</b>
<b>Honourable Senators:</b>			
*Carstairs (or Robichaud),	Cook,	Kirby,	*Lynch-Staunton (or Kinsella),
	Cordy,	LeBreton,	Roberston.

### TRANSPORT AND COMMUNICATIONS

<b>Chair:</b>	<b>Honourable Senator Bacon</b>	<b>Deputy Chair:</b>	<b>Honourable Senator Forrestall</b>
<b>Honourable Senators:</b>			
Adams,	Eyton,	Gustafson,	Oliver,
Bacon,	Finestone,	*Lynch-Staunton (or Kinsella),	Rompkey,
Callbeck,	Fitzpatrick,	Morin,	Spivak,
*Carstairs (or Robichaud),	Gill,		Taylor.

*Original Members as nominated by the Committee of Selection*

*Adams, Angus, Bacon, Callbeck, \*Carstairs (or Robichaud), Christensen, Eyton, Finestone, Fitzpatrick, Forrestall, \*Lynch-Staunton (or Kinsella), Rompkey, Setlakwe, Spivak.*



*Banks, \*Carstairs (or Robichaud), Kenny, \*Lynch-Staunton (or Kinsella), Maheu, Nolin, Rossiter.*

# CONTENTS

Tuesday, September 18, 2001

	PAGE		PAGE
<b>New Senators</b>		Senator Comeau	1215
The Hon. the Speaker	1198	Senator Taylor	1215
Introduction	1198	Senator Andreychuk	1217
Senator Carstairs	1198	Senator Christensen	1218
Senator Lynch-Staunton	1199	Senator Tkachuk	1219
Senator Prud'homme	1199	Senator Pearson	1219
		Senator Beaudoin	1220
<b>United States</b>		Senator LaPierre	1220
Terrorist Attacks of September 11, 2001—		Senator Hubley	1221
Motion of Condolences and Support Adopted.	1199	Senator Cools	1222
Senator Carstairs	1199	Senator Prud'homme	1223
Senator Lynch-Staunton	1201	Motion to Convey Resolution to Congress.	
Senator Graham	1202	Senator Robichaud	1224
Senator Kinsella	1204	Senator Prud'homme	1224
Senator Fairbairn	1205	Senator Carstairs	1224
Senator Meighen	1206		
Senator Roche	1208	<b>Adjournment</b>	
Senator Tunney	1209	Senator Robichaud	1225
Senator Forrestall	1209		
Senator Bacon	1211	<b>Business of the Senate</b>	
Senator Oliver	1212	Senator Robichaud	1225
Senator Joyal	1213		
		<b>Appendix</b>	1



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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT

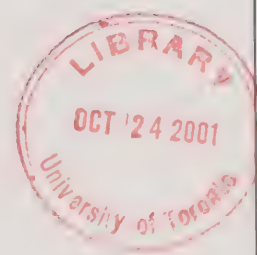
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OFFICIAL REPORT  
(HANSARD)

Wednesday, September 19, 2001



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THE HONOURABLE DAN HAYS  
SPEAKER

## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Wednesday, September 19, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

[Translation]

### THE LATE HONOURABLE JEAN-MAURICE SIMARD

#### TRIBUTES

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, of all the men and women who devote themselves heart and soul to public life, there are only a few whose name alone conjures up an immediate association with their accomplishments born of years of struggle and incredible tenacity.

One of that small group of admirable people, without any doubt, was our colleague Jean-Maurice Simard, who passed away suddenly this past June. Born in Quebec City, he became what he liked to call an Acadian by adoption. He devoted years of his life to service in the legislature at both Fredericton and Ottawa, where he was a staunch defender of francophone rights.

The 1993 constitutional amendment making New Brunswick the first officially bilingual province would never have become concrete without Jean-Maurice's dogged efforts to convince the numerous sceptics that the unity of their province required acceptance that the rights of the minority were equal to the rights of the majority. This was at a time when Quebec nationalism was gaining prominence and becoming more and more attractive to the more impatient elements of the Acadian population.

It is universally recognized that Bill 88 and the subsequent constitutional amendment are, in large part, a result of the unflagging efforts of Jean-Maurice Simard.

The last few years have been difficult for Jean-Maurice, but did not curtail his participation and presence in the Senate or in caucus. His may have lost his voice, but he continued his vigorous defence of the rights of francophones and to support their demands through his work, in particular his severe assessment of the Official Languages Act as presented in his study, *Bridging the Gap*.

Jean-Maurice understood that the survival of minority rights cannot be dissociated from the survival of the country. May his example serve as an inspiration to us all, and may he rest in peace, as he so richly deserves.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I rise today to pay tribute to our late colleague the Honourable Jean-Maurice Simard.

Jean-Maurice Simard was a chartered accountant by profession, but at the age of 37 was attracted to politics and

devoted all the rest of his life to it. He was determined to defend the rights of francophones in his province of origin, the Acadians in particular, and extended his efforts to the rest of the country once he arrived on the federal scene.

[English]

Senator Simard was an ardent promoter of French language rights and was often seen in the media promoting this cause wherever the topic of bilingualism was at issue. Throughout his life, Senator Simard was engaged in debates that we have come to see as uniquely Canadian in preserving the language legacy of our two founding nations. He was a passionate advocate for the Acadian community and the special place that Acadians hold in our country's history. He was a defender of many historic sites that are tangible links to the French-speaking New Brunswickers of previous generations.

[Translation]

Senator Simard was first elected to the New Brunswick Legislature in 1970, subsequently holding the posts of Minister of Finance, President of the Treasury Board and Minister for Public Service Reform in his province.

Senator Simard was proud to be a citizen and the political representative of New Brunswick, the only Canadian province that is officially bilingual. July 17 marked the 20th anniversary of Bill 88, which Senator Simard fathered. This legislation recognized the existence of two communities, anglophone and francophone, in New Brunswick and enshrined their rights in provincial statutes.

• (1340)

In 1988, Senator Simard became the editor of the French paper *Le Matin*, based in Moncton. The paper went bankrupt, but this upset and the senator's financial losses did not dampen his desire to expand services in French.

In 1985, after a career in provincial politics, Jean-Maurice Simard was appointed to the Senate where he was known as the "Senator from Edmundston." He played an important role on a number of Senate committees, including the Standing Joint Committee on Official Languages, of which he was the Deputy Chair.

He also sat on the Standing Committees on Internal Economy, Budgets and Administration, National Finance, Agriculture and Forestry, Fisheries, and Banking Trade and Commerce.

In recent years, Senator Simard suffered serious health problems. His illness affected his ability to speak, among other things. This must have been difficult for the person known as the "voice of New Brunswick." He continued to be pleased to talk to people and he remained determined to serve his community through the Senate, despite his personal difficulties.

I should like to offer his family my sincere condolences and those of all parliamentarians. We are many, who, regardless of our political allegiance, miss his presence.

[English]

**Hon. Brenda M. Robertson:** Honourable senators, "Mon pouvoir, j'y crois." "I believe in my power." This simple, strong, assertive declaration sums up the personal and the political philosophy of Jean-Maurice Simard. In over 30 years of public life, Jean-Maurice lived and acted by this one statement. It was his guiding principle long before it appeared on a button one weekend in Shippegan, on the Caraquet coast of New Brunswick, in August of 1982.

As President of the PC Party in 1968, as MLA for Edmundston from 1970 to 1985, as Minister of Finance, as President of the Treasury Board, as Minister of Public Service Reform, and as a senator, Jean-Maurice Simard exercised his personal and his political power to make New Brunswick a fairer, stronger and more equal society.

Honourable senators, he succeeded. He succeeded because he believed so strongly in his own vision for the province of New Brunswick, a province where francophones and anglophones were equal: equal in their rights within New Brunswick and equal in benefiting from those same rights as New Brunswickers.

Jean-Maurice's legacy and influence is profound: the Official Languages Act; Bill 88, an act respecting the two official linguistic communities in New Brunswick; duality in our educational system; better hospitals; services for his people; and a political party, the Progressive Conservative Party of New Brunswick, which has grown and matured into a truly representative party for all New Brunswickers.

Jean-Maurice knew that if he were to effect change, he had to change the very power structures of the government. To do that, he had to first change the face and the attitudes of the PC Party of our province.

We were lucky that he had his own champion in our late Senate colleague, Richard Hatfield. In many ways, as we look back, I think it is fair to say that one could not have existed without the other, even if that coexistence was sometimes as intense as the times in which we lived.

Jean-Maurice persevered. He persevered because he did believe in his own power and because he believed he made a difference. In making a difference, Jean-Maurice made waves. Those of us who have been in politics for a while know that change is often very difficult to accept and to achieve. That was certainly the case with Jean-Maurice. Those of us who knew Jean-Maurice well might be forgiven if we say that, secretly, he enjoyed on occasion the controversy that he engendered.

However, Jean-Maurice was a lightning rod. People often mistook his passionate commitment to the Acadian idea and the Acadian ideal for a kind of reverse intolerance, and nothing could be further from the truth.

I believe that equally secretly it pained him. He knew that for New Brunswick to succeed, both the English and the French

communities had to respect each other equally. He knew that for Acadians to withdraw into themselves in response to linguistic stresses — "to retreat into a sterile silence," as he put it — would be wrong for Acadians as a whole, and all New Brunswick would suffer.

Some observers called him hot-headed. Those of us who worked closely with Jean-Maurice in cabinet, in caucus and here in the Senate know that, in fact, he was actually just hard-headed. He was hard-headed in his assessment of what needed to be done to advance the causes he so fervently believed in. We knew that his motivations were good. We knew that you could not divorce the man from his motivations. They were one and the same.

Honourable senators, Jean-Maurice was determined to achieve his goals. He was often in a hurry to do so. He loved politics — the game, the people, the stakes — and not surprisingly he played to win. In fact, he seemed to play everything to win.

Shortly after we were summoned to the Senate, Jean-Maurice and I found ourselves on a bus tour of Nova Scotia, promoting and explaining changes to the unemployment insurance program being sponsored by the federal Conservative government of the day.

To pass the time, we decided to play cards. From Halifax to Cape Breton, we played 22 hands of rummy and Jean-Maurice won every single one of them. That was the nature of Jean-Maurice.

I will remember him in so very many ways. I will remember him as a fighter — a fighter for the causes he believed in; a fighter for the people he represented; a fighter for an open, inclusive New Brunswick, a society of equals and equality.

It is in this vein that I will remember Jean-Maurice as an optimist — an optimist who saw our New Brunswick whole.

Let the last word be his because he would want it that way.

New Brunswick is a rallying point. New Brunswick belongs to all New Brunswickers. And our great challenge, anglophones and francophones, is to pool our know-how, our sense of initiative, our will to survive and expand so that we shall be able to benefit fully and collectively from the promises the future holds for us.

Honourable senators, we shall miss him. He was a friend of 35 years. He served his country and his province well.

[Translation]

**Hon. Eymard G. Corbin:** Honourable senators, some of you may know this, but most of you are not aware of the fact that Jean-Maurice Simard and Eymard G. Corbin went head to head against each other in the federal election of 1968, the election that resulted in the first Trudeau government. I won by only a few hundred votes in the riding of Madawaska—Victoria. In a way, we followed on each other's heels: myself at the federal level, and Senator Simard in the Hatfield government at the provincial level.



• (1350)

Senator Simard had few interests beyond politics, the instrument of power and development. Even when he managed a baseball team, he was thinking about politics! He accomplished many things for our area. His personal political slogan was "Edmundston first," demonstrating the importance of his riding. We even worked together on certain projects. He always "performed" with much fanfare, to the annoyance of some, but he generally managed to attain his goals for the betterment of our area and province. We crossed swords on one or two occasions here in the Senate, but later on, we made peace. In one of his last speeches in this chamber, he expressed kind thoughts about me. I was deeply moved by those words, and remain grateful. We are all aware of his devotion to his work, his sense of duty and his constant interest in certain issues that were dear to him, even when he became ill.

I would like to reiterate my condolences to his family, to Mrs. Simard, as well as to his son and two daughters, whom I saw at his funeral, on June 22, at Notre-Dame-des-Sept-Douleurs Church in Edmundston.

**Hon. Lowell Murray:** Honourable senators, the past provides us with many reference points, and these reference points are unforgettable. Back in 1960, the great Acadian saga reached a turning point.

New Brunswick's Premier Robichaud had introduced his Equal Opportunity program. The program involved reforming taxation, redistributing municipal boundaries, and centralizing education, health and social services at the provincial level. In order to accomplish this, it was also necessary to make major changes to the province's civil service. Finally, in 1969, the Robichaud government passed New Brunswick's Official Language Act.

Louis Robichaud had courageously laid the foundation for his reforms, but it fell to the government of Richard Hatfield, which was elected for the first time in 1970, to put the principles into practice. It was Premier Hatfield who built the infrastructure needed to implement the reforms, which involved expanding the hospital sector, creating homogeneous school districts, and reforming the French-language university network.

Success for this vast undertaking is largely attributable to Jean-Maurice Simard, a Quebecer by birth, an adopted son of the Republic of Madawaska, and Premier Hatfield's French-speaking lieutenant. After the 1970 election, Simard was one of the only two French-speaking members of the Conservative cabinet. A tireless and vigilant defender of the French language and of Acadian rights, he was the embodiment in the cabinet of the French fact in New Brunswick. It was a weighty responsibility and he devoted himself to it body and soul. It was certainly not a restful task. The initiatives and policies of the Hatfield government met with opposition from some and even led to divisions within the French-speaking community, particularly on the issue of universities. However, the government persisted and

never compromised the program's principles. Equal opportunity. He believed in it and stood by it.

Although the government managed to get only two francophones elected in 1970, he earned the trust of Acadians over the years. For his fourth and final term of office beginning in 1982, he won the majority support of voters in both linguistic communities and represented a majority of the riding in the legislature.

In 1982, New Brunswick agreed to take part in Mr. Trudeau's constitutional project, provided that the linguistic rights of the province's francophones and anglophones were enshrined. The following year, Jean-Maurice promoted the concept of two linguistic communities. Through his efforts, the Hatfield government passed the legislation recognizing the equality of both official language communities in New Brunswick.

Jean-Maurice Simard was a member of the Senate when, in 1993, we ratified and enshrined in the Canadian Constitution the provisions of this legislation, this time at the initiative of the New Brunswick government under Frank McKenna and the federal government under Brian Mulroney.

In May 2000, in a presentation given to the Joint Standing Committee on Official Languages, this man of action wrote and I quote:

Sometimes indifference smothers life bit by bit.

Indifference was totally foreign to Jean-Maurice's character. Without fail, throughout his political involvement as a Progressive Conservative, he retained the esteem of his anglophone colleagues, particularly during his time as minister. His contribution to my party was a huge one, since his active involvement dates way back to his teen years. He paved the way for the numerous francophones who have since been added to its ranks. He is one of the founding fathers of the modern-day renaissance of the Acadian people. His accomplishments have left their mark on the history of his country and his province. He leaves a very great void behind him, particularly in the Senate.

[English]

He was a redoubtable ally, a valued colleague and, in my case, a good friend for more than 25 years. I shall miss him greatly.

[Translation]

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I, too, wish to pay tribute to Senator Simard. The Acadians, and all francophones in minority situations across Canada, recognize the tenacity and determination demonstrated by Senator Simard throughout his entire political career.

In view of the convictions and vision of Jean-Maurice Simard, the government of Premier Richard Hatfield had no choice but to continue to promote the rights of francophone minorities. As my colleague Senator Robertson has said, there was a clear understanding of that vision of his at the legendary weekend in Shippagan. Determined, tenacious, that he was.



I came to know Jean-Maurice Simard when he was President of the New Brunswick Treasury Board and I the President of the New Brunswick francophone teachers' union. We were on opposite sides of the negotiating table. You will all understand that negotiating a collective agreement was not always an easy task.

Honourable senators, I was proud to meet the Simard family at his funeral, and I wish him the peace he well deserves.

**Hon. Gerald J. Comeau:** Honourable senators, I rise to pay tribute to a great friend and a great Canadian. For us Acadians and Maritimers, Senator Simard was a staunch defender, a visionary, a spokesman. He never gave up his fight to advance the interests of our community. His action went far beyond the borders of New Brunswick and he was just as interested in francophone minority communities in the Maritimes as in other provinces.

• (1400)

I knew Senator Simard for a very long time. When I first came to the Senate, I had the pleasure of working on a number of issues with him. He was so well known and respected by francophones throughout Canada that, initially, I had the feeling I was working with a legend. He gave me advice on a number of difficult issues and I could always count on him. I adopted his policy: Never back down!

He was not of Acadian origin but, because of his contribution and his devotion to the cause, Acadians considered him one of their own. He deserves a place of honour in the hearts of all Acadians. If there are spots reserved in heaven for great Acadians, I am sure that Senator Jean-Maurice Simard is very deserving of his. During his funeral in Edmundston, I saw the great esteem in which his fellow citizens held him.

Once again, I extend to his family and to his many friends my most heartfelt condolences, and assure them that we will remember him always.

**Hon. Jean-Claude Rivest:** Honourable senators, I join with you in honouring the memory of Senator Simard. I had the pleasure of working with him on the Official Languages Committee, of which I have been a member for almost nine years. I would like to tell you about his very great concern for the protection of linguistic rights in Canada, especially in Acadia.

I particularly want to mention the report on the status of the official languages in Canada, which he published before he left us. This very detailed and extremely relevant report represented not only his political testament, but also a plan of action for the government. When Dyane Adam took up her duties as Official Languages Commissioner, she told me that Senator Simard's report would serve as her inspiration.

Honourable senators, yesterday afternoon, when the Joint Standing Committee on Official Languages met with the minister

responsible for official languages, Stéphane Dion, a number of speakers referred to Senator Simard's report. This is an indication of how very topical his comments and concerns were, and how important his contribution to the protection of minority rights in Canada was.

I would remind you that Senator Simard made such a strong and convincing argument of the need for a minister responsible for the enforcement of the Official Languages Act that he must have persuaded the Prime Minister to appoint such a minister to his government. Minister Dion is fulfilling this function right now. This appointment is a sign that Senator Simard's work is continuing beyond the grave.

[English]

**Hon. Joyce Fairbairn:** Honourable senators, I, too, wish to remember with great fondness Senator Jean-Maurice Simard. I was tremendously sad when I heard of his death in June. Even in the short time that we have been back here, I miss him already. I keep looking for that face and listening for that voice. It may surprise honourable senators on both sides of this chamber when I say that Jean-Maurice Simard and I were good friends, and if he were here today, I think he would be nodding as well.

I first became conscious of Senator Simard and the zest he had for politics, as well as for living, during the days of the GST debate back in 1990. Some honourable senators may recall that I spoke quite a lot during those days. In fact, it seemed like endless days and nights. My most fervent tormentor and heckler was Senator Simard. He seemed to be there 24 hours a day — and he took absolute joy in going after me no matter what it was I was talking about. Even if it was the cause of literacy, he had a response.

Outside the chamber, though, in those dark nights, — and I notice Senator Keon is smiling because he was called upon during those times to minister, in his capacity as a doctor, to some of the honourable senators — Senator Simard and I would talk. He was gracious and cheerful, and I came to know him — as a man of tremendous convictions.

When I became Leader of the Government in the Senate, I could tell the minute I walked into the chamber if it would be one of those days when I would be required to endure the good senator from Edmundston, New Brunswick. I would look over at where he sat and I would see him there, slouched in his chair, his eyebrows knit together, his black eyes flashing, and he looked mean. Those eyes were looking at me. Then he would proceed — relentlessly.

It did not matter what the Speaker said; it did not matter what the time limits were. Jean-Maurice Simard marched to his own drummer. He got his point across. I would listen with admiration, with interest, and I hoped that I could find the right section in the briefing book that might mitigate some of this rage. However, behind it all, I knew the moment we stepped outside the chamber that it would be a handshake, a smile or a pat on the back.

To say that Senator Simard was passionate in his beliefs is putting it mildly, and he certainly lived what he believed. This morning I picked up, out of curiosity, the maiden speech he made when he became a senator, just to see what was going through his mind then. He spoke on December 5, 1985, and it was the occasion of the fifteenth anniversary of the election of former Premier Richard Hatfield. Senator Simard devoted his speech in the Senate to talking about his friendship, his association, his administration, his brotherhood with that long-serving and hugely respected Premier of New Brunswick. As he did so, it became clear that, in a sense, everything he said with admiration about Richard Hatfield was something that he, himself, firmly associated in with the premier. It was hard to separate them from their resolve together.

• (14:10)

What did he talk about? He talked about the patriation of the Constitution, the considerable role that Premier Hatfield had played in that momentous period of history and the importance that Senator Simard believed that held for the future of Canada. He talked about the Charter of Rights and Freedoms, again as part of a tremendous accomplishment that had his full and heartfelt support as it had, obviously, that of his friend, the premier. He talked about what was in that Constitution, namely, equal opportunity for all parts of Canada, in particular, those parts that were having more difficulty than others at that point in time.

Senator Simard also talked about regional disparity. That theme was an obsession for him right to the very end because it, too, was a question of equality and fairness, something he had fought for throughout his political and public life.

Finally, of course, he talked about the equality of the two linguistic communities in the province of New Brunswick. He always spoke with enormous pride about New Brunswick becoming the first truly bilingual province in this country. He, as Senator Lynch-Staunton noted in his remarks, was born a Quebecer but he came here, of choice, as an Acadian. Never did the Acadian population of this country have a more dynamic spokesperson when aroused, as he constantly seemed to be on that subject, than Jean-Maurice Simard.

Honourable senators, when we lose our colleagues we reflect on their achievements and on their personalities. We also reflect on their candour. He made clear in his first speech before this Senate that he had the firmest of intentions of carrying on with his political activity that had motivated him for so many years, and so we should in this chamber. That is part of the reason that we are here. We are political activists; we are activists for causes. They should in no way be muted because we are in the Senate.

He concluded his remarks, however, by asking us to help him benefit from the experience of those in this chamber, particularly those who had been here for quite a long time. He then said, "In return, I can assure you of my fullest cooperation, as non-partisan as possible, in keeping with the main objective of the Senate, which is to approve legislation, programs and budgets in the interests of all Canadians."

Honourable senators, Jean-Maurice Simard did that. He did it with style. He did it with verve and passion, humour and anger.

He was a truly fine representative in this house. I extend to Madam Simard and the family not only my very best wishes and my sympathy but also my understanding that they have tremendous memories to live by of a very strong Canadian.

[Translation]

**Hon. Jean-Robert Gauthier:** Honourable senators, I met Jean-Maurice in a forum very different from the Senate. I have lost a friend, a colleague who knew the Francophonie, because he was a regular participant in the meetings. He was known in Europe, Africa and in Canada. He was known foremost as a person of conviction and he knew how to defend his positions. He was faithful, courteous and, at times, stubborn.

Although he was sick, he regularly attended sittings of the Standing Committee on Official Languages. We met on occasion after meetings to discuss strategy. He always had good advice.

In Edmundston, at a meeting of Francophonie parliamentarians, he said to me: "You know, I am sick. I am going to have an operation. It is tough." I was a bit emotional and tried to comfort him. Afterward, he had a liver transplant. Complications arose. We are all aware of the difficulties he had.

He was a real friend, a man who recognized the right moment to slip a word in the right place. We wanted nothing more, but nothing less. He was a French Canadian.

[English]

## SENATORS' STATEMENTS

### USHER OF THE BLACK ROD, MARY MCLAREN

#### TRIBUTE ON DEPARTURE

**The Hon. the Speaker:** Honourable senators, on your behalf, allow me to pay tribute to both a loyal and a dedicated officer of this chamber and of this institution. After four years of serving the Senate with great distinction as Lady Usher of the Black Rod, Mary McLaren, who is with us in the gallery today, is moving on to a new position as Director General with the National Research Council of Canada.

I have no doubt that all honourable senators will join me in saluting Mary McLaren, the first woman ever appointed as Usher of the Black Rod. Though she is leaving us, we will remember her fondly and thank her sincerely for the great competence, professionalism and dignity with which she served this place.

She broke a lot of new ground as the first woman appointed to this position, which testifies to her strength of character, courage and determination. Those qualities served her well when considering that, on accepting this position, she stepped into a world steeped in a 500-year-old tradition where the Usher of the Black Rod acts as the Queen's personal messenger or that of her representatives.



Not only did Mary McLaren distinguish herself in carrying out ceremonial duties that include the opening of Parliament and Royal Assent, she also did an exemplary job fulfilling her senior management responsibilities, overseeing the Page program, coordinating protocol and exchanges for the Senate, as well as ensuring the high quality of information technology and computer services. She leaves an indelible stamp, having set up systems that will serve our institution for years to come.

[Translation]

Before coming to the Senate, Mary McLaren was the Director of Strategic Analyses, Human Resources at the Department of National Defence. She made a name for herself through her considerable ability in management and restructuring and helping the Armed Forces set up new recruitment and training programs and policies.

On behalf of all of us, Ms McLaren, I thank you most sincerely for serving our institution with such devotion, ability and dignity. We wish you every success in your new duties.

[English]

## THE LATE ERNIE COOMBS

### TRIBUTE

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, if I thought humming was in order in this chamber, I would hum the tune that in the early and mid-1970s sent two little girls running to the television set, with their mother not very far behind, to watch Mr. Dressup. Mr. Dressup, Casey and Finnegan were daily friends. In our den was our version of the Tickle Trunk where dress-up clothes were stored for make-believe times.

Honourable senators, my daughters Catherine and Jennifer join me in thanking Ernie Coombs, Mr. Dressup, for his enrichment of our lives, and I express our condolences to his family.

## THE LATE KIMBERLY ROGERS

### TRIBUTE

**Hon. Norman K. Atkins:** Honourable senators, I rise today to draw your attention to a particularly tragic event that occurred this past summer — the death of Kimberly Rogers on August 9 in Sudbury, Ontario.

It is my belief that her death should not go unnoticed, despite the tragic events of the last week in the United States. As people who make the laws under which Canadians live, we should, when we pass judgment on proposed pieces of legislation, step back and consider the society we are creating.

For those honourable senators who are unaware of the details of this situation, the facts, though gravely disturbing, are few and simple.

Born in Sudbury in 1961, Kimberly Rogers was raised by her mother and, at the age of 19, moved to Toronto. What she encountered there were many low-paying, part-time jobs, an

extremely abusive relationship and the onset of clinical depression. By 1996 she was back in Sudbury, living on welfare and having attempted suicide.

Later that year, through sheer determination, she decided to pull herself together and turn her life around. She enrolled in Cambrian College, in its social services department, from which she graduated near the top of her class. Unfortunately, while going to school, she continued to collect social assistance and also borrowed money through the student loan program. That is illegal; she was caught and she pled guilty to welfare fraud.

Fraud cases occur regularly and they are dealt with as a matter of course by our criminal justice system. What makes Ms Rogers' case stand out is the punishment dealt out by our criminal justice system, punishment which I believe led directly to her death. Her punishment was right out of a 19th-century Charles Dickens novel. She was removed from the welfare rolls, ordered to repay the money over 63 months and confined to a ramshackle dwelling for all but three hours a week. She was pregnant and alone, without money and without her medication to combat attacks of depression, all during a record-setting heat wave this summer. I believe she died a victim of our system.

Honourable senators, her tragic life and her untimely death should stand as a beacon for all of us. What we do here with public policy has a real impact on the lives of Canadians. In everything we do, we should ask ourselves whether we are creating a situation that will have unintended results, results which are so harsh that they cause untold pain and, in the case of Ms Rogers, her death and the death of the baby she was carrying.

Instead of excusing ourselves by saying that Ms Rogers just fell through the cracks in our civil and justice systems, we should work tirelessly to close and eventually eliminate those cracks.

## ROUTINE PROCEEDINGS

### PRIVILEGES, STANDING RULES AND ORDERS

#### FOURTH REPORT OF COMMITTEE PRESENTED

**Hon. Terry Stratton,** Deputy Chair of the Standing Committee on Privileges, Standing Rules and Orders, for Senator Austin, presented the following report:

Wednesday, September 19, 2001

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

#### FOURTH REPORT

Your Committee recommends that 86(1)(r) of the *Rules of the Senate* be amended by replacing the words "Senate Committee on Defence and Security" with the words "Senate Committee on National Security and Defence."

Respectfully submitted,

JACK AUSTIN, P.C.  
Chair



**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stratton, report placed on Orders of the Day for consideration on Tuesday next, September 25, 2001.

#### FIFTH REPORT OF COMMITTEE PRESENTED

**Hon. Terry Stratton,** Deputy Chair of the Standing Committee on Privileges, Standing Rules and Orders, for Senator Austin, presented the following report:

Wednesday, September 19, 2001

The Standing Committee on Privileges, Standing Rules and Orders has the honour to present its

#### FIFTH REPORT

Your Committee recommends that 86(1)(f) of the *Rules of the Senate* be amended by replacing the words "Committee on Privileges, Standing Rules and Orders" with the words "Committee on Rules, Procedures and the Rights of Parliament."

Respectfully submitted,

JACK AUSTIN, P.C.  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stratton, report placed on the Orders of the Day for consideration on Tuesday next, September 25, 2001.

[Translation]

#### STUDY ON MATTERS RELATING TO FISHING INDUSTRY

#### REPORT OF FISHERIES COMMITTEE TABLED

**Hon. Gerald J. Comeau:** Honourable senators, I have the honour to inform you that the third report of the Standing Senate Committee on Fisheries, dealing with aquaculture in Canada's Atlantic and Pacific regions, was tabled with the Clerk on June 29, 2001.

On motion of Senator Comeau, pursuant to rule 97(3), report placed on the Orders of the Day for consideration at the next sitting of the Senate.

#### THE SENATE

#### COMMITTEE OF THE WHOLE—REPLACEMENT OF SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS ON PROCUREMENT PROCESS—NOTICE OF MOTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that during the next sitting of the Senate, I will move:

That at 3:00 p.m. on Thursday, October 4, 2001, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters.

#### ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), moved:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, September 20, 2001, at 1:30 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon Senators:** Agreed.

Motion agreed to.

#### INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

#### FIRST READING

**Hon. Fernand Robichaud (Deputy Leader of the Government)** presented Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Poulin, bill placed on the Orders of the Day for second reading two days hence.

• (1430)

#### OFFICIAL LANGUAGES ACT

#### BILL TO AMEND—FIRST READING

**Hon. Jean-Robert Gauthier:** Honourable senators, I have the honour to present Bill S-32, to amend the Official Languages Act (fostering of English and French).

The bill amends the Official Languages Act by changing the scope of section 41, in such a manner as to achieve its objective.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On the motion of Senator Gauthier, bill placed on Orders of the Day for second reading two days hence.

## SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

STUDY OF DOCUMENT ENTITLED "SANTÉ EN FRANÇAIS—POUR UN MEILLEUR ACCÈS À DES SERVICES DE SANTÉ EN FRANÇAIS"—NOTICE OF MOTION

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Thursday, September 20, 2001, I will move:

That the Standing Senate Committee on Social Affairs, Science and Technology be authorized to examine and report on the document entitled *Santé en français — Pour un meilleur accès à des services de santé en français*. This document was commissioned by the Federal Department of Health and coordinated by the Fédération des communautés francophones et acadiennes.

## TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO MEET  
DURING SITTING OF THE SENATE

**Hon. Lise Bacon:** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)a, I move:

That the Standing Senate Committee on Transport and Communications have power to sit at 5:30 p.m. today, Wednesday, September 19, 2001 for its study of Bill C-14, An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts, even though the Senate may then be sitting and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

[English]

## LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET  
DURING SITTING OF THE SENATE

**Hon. Lorna Milne:** Honourable senators, I move:

That the Standing Senate Committee on Legal and Constitutional Affairs have power to sit at 5:30 p.m. today, Wednesday, September 19, 2001, for the purposes of its examination of Proposals to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal an Act and certain provisions that have expired, lapsed or otherwise ceased to have effect, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## BUSINESS OF THE SENATE

**Hon. Lowell Murray:** Honourable senators, I am taken aback by this motion. I take it that there is a possibility that the Senate will sit longer this afternoon than we would normally on a Wednesday afternoon.

[Translation]

Does the Deputy Leader of the Government have a general solution for all the committees which were to sit this afternoon?

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, given the special debate we held yesterday, it was agreed by the leaders that all parliamentary proceedings scheduled for Tuesday to Thursday would take place today and tomorrow and that this situation would result in a longer sitting today. It was thought that, if the Senate was still sitting at 5:30 p.m., we would grant leave to committees to sit after that hour, at the same time as the Senate.

**Senator Murray:** Honourable senators, I thank the deputy leader. This will not create a problem for the National Finance Committee, and we will be able to sit as planned at 5:45 p.m.

**Hon. Marcel Prud'homme:** Honourable senators, I would ask that all items on the Order Paper in my name stand until the next sitting of the Senate.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## ROLE OF CULTURE IN CANADA

NOTICE OF INQUIRY

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Tuesday next, September 25, 2001, I will call the attention of the Senate to the important role of culture in Canada and the image that we project abroad.



• (1440)

[English]

## QUESTION PERIOD

### CANADA-UNITED STATES RELATIONS

#### MEETING BETWEEN PRIME MINISTER AND PRESIDENT— REQUEST FOR INFORMATION

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate.

I understand that the Prime Minister is travelling to Washington tomorrow, presumably to discuss with United States officials, including the President of the United States, matters of security arising out of the difficulties we find ourselves in. The Prime Minister has already told our nation that Canadians will stand shoulder to shoulder with our allies in the United States to fight this war on terror. We all welcome that. My question is this: What will Canada's contribution be? What will the Prime Minister offer the President of the United States tomorrow at this White House meeting that is so important?

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question; it is nice to be back in the Senate hearing questions from Senator Forrestall.

Let me begin by telling the honourable senator that I do not think the meeting is scheduled for tomorrow. I understood that the meeting between the Prime Minister of Canada and the President of the United States is scheduled for next Monday. However, if I am mistaken, I will get back to the honourable senator immediately with the correct information.

The honourable senator is quite correct in his statement that Canadians will stand by our American friends, neighbours, and family. Certainly that is my case. The exact contribution to be made by Canada will be ultimately determined by Canada, but certainly we will want to know through this meeting with the President of the United States what it is that the Americans are asking of us.

**Senator Forrestall:** I hope that my information is correct. On the other hand, I garner it from the national press, not being privy to the Prime Minister's day-to-day itinerary, nor that of the President of the United States, I might add.

I am somewhat distressed because the three-day deadline for the production of Osama bin Laden is up at some time tomorrow morning, perhaps 8:30 according to my calculations. I could be wrong with respect to that. God knows, we may be at war by then. I just do not understand. Perhaps the President of the United States is too busy to see us, and that is understandable.

## NATIONAL DEFENCE

#### UNITED STATES—TERRORIST ATTACKS OF SEPTEMBER 11, 2001—POSSIBLE RETALIATORY MEASURES—CONTRIBUTION BY ARMED FORCES

**Hon. J. Michael Forrestall:** My second question relates to possible contributions that we could make, one of them being our CF-18s. However, as all honourable senators know, Canada has no long-range tankers to provide transport to Pakistan or India, let alone Afghanistan. The navy is a two- to three-week cruise away, at the least. The army has put one infantry battalion on standby, but again we have no transport to get them to central Asia, and even then they are not trained special forces. What military assets does Canada have that the Prime Minister of Canada can offer to the President of the United States whenever this meeting will take place?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the decision to take action, whatever form that action will take, is not something on which either the President of the United States or the allies will act precipitously. Although there was a three-day deadline in having Osama bin Laden turned over, I do not think that that is a deadline for when military action may take place.

In answer to the honourable senator's question in regard to equipment, the clear, powerful image of our troops, dedicated as they have been in most recent years to peacekeeping and peacemaking efforts, are certainly the greatest asset that Canada has.

**Senator Forrestall:** Again, I am somewhat amazed, honourable senators, at that response. It leaves me with the understanding that an enormous presumption has been made. I do not want to associate myself with that kind of an assumption.

If the United States of America says three days, it is three days. If there is a rational reason to prolong it for one or two days, that is understandable. However, to say to this chamber that the United States of America will not react, and react with force, determination and will, is taking me somewhat out of my comfort zone, in any event.

Honourable senators, I understand that the Australians have determined that all Australian personnel on exchange serving with the United States are to follow their American units into battle. Has cabinet in Canada made a similar decision? If so, when was the decision made and when it will be announced?

**Senator Carstairs:** Let me make it clear to honourable senators that I do not speak for the President of the United States, nor I do make decisions for the President of the United States. When the President and the Congress of the United States decide to act, that will be ultimately their decision. However, the Government of Canada will make the decision of when Canada will act or react. The Government of Canada has been clear in its position, from the beginning, that we stand by our American neighbours, our friends, and that we will do what we can within the Canadian framework to help them in whatever way they ask help of us, as we have done up to this point, since that tragedy of last week.



**Senator Forrestall:** Honourable senators, I have asked whether or not cabinet or the Prime Minister, with the knowledge of cabinet, has taken a decision with respect to members of the Canadian Forces who may be serving with American forces. Has a decision been made as to whether those members will join in any action strategy laid down by the President of the United States, including the type of action that we normally understand to be war?

**Senator Carstairs:** The honourable senator is well aware of the fact that I cannot discuss what may have taken place at cabinet, or to announce any cabinet decisions before the head of that cabinet, the Prime Minister, should make such an announcement.

## CANADA-UNITED STATES RELATIONS

### TERRORIST ATTACKS OF SEPTEMBER 11, 2001—LIMITATION OF POSSIBLE RETALIATORY MEASURES

**Hon. Douglas Roche:** Honourable senators, I wish to repeat my support of Prime Minister Chrétien's reasoned response that he has so far given to this crisis. My question to the Leader of the Government is as follows: Bearing in mind Canada's responsibilities to both NATO and the United Nations, will the government caution the United States that restraint must be exercised in any forthcoming military strike in Afghanistan to ensure that innocent people are not killed in the search to capture the culprits of the attacks in New York and Washington?

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question. I can only assume, knowing the nature of our Prime Minister, that his discussions with the President of the United States will be in his usual forthright fashion. Just as the Prime Minister has made statements to the Canadian people, I am sure that that is the exact language he will use with the President of the United States.

As to Senator Roche's specific comments in regard to innocent people, let me assure him that I will share those comments immediately with my colleagues, not only with the Prime Minister but also the Minister of Defence.

• (1450)

**Senator Roche:** I thank the minister for that response.

The Prime Minister further acknowledged in the other place that in the event of a military strike, "We cannot promise that not a single life will be lost."

I respect that statement as a fact. In the present circumstances, we will probably have to accept it. However, that acceptance does not carry with it permission to break the cardinal rules of conflict, namely, that the damage be limited and proportional.

Will the government press the concepts of limitation and proportionality on the United States at this critical moment?

**Senator Carstairs:** Honourable senators, there have already been 6,000 innocent lives lost, and I do not think it is the desire of anyone inside or outside of this chamber that further innocent lives be lost.

As the honourable senator has addressed most eloquently, we have international obligations, and I have absolutely no reason to believe that those international obligations will not be fulfilled.

## TRANSPORT

### AIRLINE INDUSTRY—EFFECT OF TERRORIST ATTACKS ON UNITED STATES—GOVERNMENT SUPPORT

**Hon. Terry Stratton:** Honourable senators, my question is addressed to the Leader of the Government in the Senate. I wish to welcome her back and say that I hope we will not be too tough on her, at least not too often.

My question is with regard to the impact that last week's events have had on the airline industry of Canada. Transport Minister Collenette has met with Robert Milton, the CEO of Air Canada, who got a very friendly hearing without any conclusion. The minister has said that he will be monitoring the situation over time.

I know that the Leader of the Government cannot give me a direct response to my question today. It is important that everyone knows that we are under time constraints and that a lot is happening very quickly. Nevertheless, it is important for Canadians to get a better sense that the government is still in control. That is the concern every Canadian wishes to allay.

Does the Leader of the Government in the Senate have any idea how long it will take for the government to make a decision regarding the effects on Canadian air carriers and what kind of bailout package they will receive?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, let me begin by congratulating Senator Stratton on his new position as whip of the opposition. We will try not to give him too much of a hard time either.

In response to his question, I watched with interest the interview last evening with the President of Air Canada, who was most gracious in his comments about the Minister of Transport. He indicated that they had very thoughtful and good discussions and that the minister had been very supportive, particularly during those very difficult days when planes were landing at a variety of airports across Canada.

I can tell the honourable senator today that many questions still need answering. We need to know what will be the extent of the losses to the airline industry which, particularly in the case of Air Canada, was already in serious economic difficulty before the tragedy of last week. I understand that discussions are ongoing daily. However, while the airline industry has been severely hurt, it is not the only industry that has been hurt, and I do not think there will be a response to that industry until there is a response to economic conditions as a whole.

**Senator Stratton:** I thank the leader for those kind words. They are appreciated.

Honourable senators, as the minister indicated, in addition to the airline industry, other industries in Canada have been impacted. For example, the trucking industry has been impacted severely by huge delays at the border. That industry is losing a large amount of money as well.

I hope that the Leader of the Government in the Senate will not mind me asking questions about progress as the government studies this matter because it is important for Canadians, particularly those affected, such as those in the trucking industry, to know how long this process will take. When the government says it will look at a matter, that can take six weeks, six months or six years. The response to our airline industry must be compared to the response of the U.S. government to their airline industry, but the question in people's minds is how long it will take. It is recognized that the impact on American airlines is far greater than on ours, but it must be remembered that in addition to their airlines, their businesses along the border are impacted as well.

**Senator Carstairs:** I thank the honourable senator for recognizing that it is not only the airline industry that has been impacted. One of the things that we do not understand is how long this impact will last. Will it be short term or will it be long term? That is why it is important to collect the data before decisions are made, inasmuch as it can be collected. We are not star gazers; we cannot forecast. However, over the next week or so, we should begin to understand what has returned to normal, what suffering there was during the abnormal period, and which industries will take a much longer time to return to normalcy.

As and when I have information to share with the honourable senator, I will do so. I welcome his updated questions.

## CITIZENSHIP AND IMMIGRATION

### TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PROVISIONS OF IMMIGRATION AND REFUGEE PROTECTION BILL

**Hon. Donald H. Oliver:** Honourable senators, my question is directed to the Leader of the Government in the Senate. The United States government has long argued that the Canadian border is porous. The problem is that this creates the possibility for unfettered movement of criminal elements from Canada to the U.S. A previous U.S. ambassador to Canada, Gordon Giffen, called for a sharing of border security information between our two countries, a call that has so far been ignored by our government. More recently, in the aftermath of last Tuesday's attack on the World Trade Center and the Pentagon, current Ambassador Paul Cellucci echoed the same sentiment.

In light of recent events affecting the Canada-U.S. border, immigration controls and the campaign to stamp out terrorist elements in North America, including Canada, is the government open to re-examining the immigration controls proposed by Bill C-11? That bill, the honourable minister will recall, deals with granting refugee protection to people who are displaced, persecuted or in danger.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank Senator Oliver for his question, but it is important to put on the record the complimentary comments made by United States Ambassador Paul Cellucci in which he talked about the great cooperation and the great relationship of the United States and Canada on military, security and intelligence matters. He stated very clearly the cooperation taking place on all three of those files.

As to the specific question, the immigration bill is presently before the Senate. It will begin its process of second reading this afternoon. I personally hope that we will pass that bill very quickly because I think it will send a strong signal to the Americans that we are prepared to tighten immigration controls. Whether that will be adequate remains to be seen. I know that there will be a great many discussions between Canadians and Americans about how we can mutually protect our borders.

• (1500)

Whether we need future legislation, and future legislation quite quickly, again, remains to be seen. However, everything is open for debate and discussion. Meanwhile, I personally would like to see us pass that bill because it is stronger than what we have at present and I believe it would be a good first step.

**Senator Oliver:** Honourable senators, the minister has said she would personally like to see this bill passed quickly, but if the committee, in its study and after hearing witnesses, finds that they would like to have amendments I should like to know whether the minister will be prepared to consider any amendments.

## CUSTOMS AND REVENUE AGENCY

### TERRORIST ATTACKS ON UNITED STATES—EFFECT ON BORDER PROCEDURES

**Hon. Donald H. Oliver:** As a further supplementary, can the Leader of the Government indicate, given Canada's support for diversity and equality as a matter of public policy, whether Canada Customs and Immigration officers have been formally instructed to direct additional security screening towards the transborder movement of peoples of Arabic descent or with Arabic sounding names?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the senator has asked a question with two parts, both of which are equally important.

It will be up to this Senate chamber to determine whether or not it wishes to amend Bill C-11. The committee will report and the committee will make recommendations to either accept the bill as is or introduce amendments. If we move into third reading stage, which we will, then of course amendments from the floor of this chamber are possible.

I have given my own particular preference, but I do not rule the committees. The committees make their own determinations and I know that in this case the committee will want to have a thorough study of this bill, and they should have a thorough study of this bill.



I would, however, remind honourable senators that if we make amendments to that bill, then we will slow down the process because the bill then must go to the other place and further discussions will take place. That is why my personal preference is to pass the bill as is and then accept other amendments as they may come down the pipe.

In terms of the honourable senator's other question, my understanding is that the border patrols have been asked to examine people sometimes on the basis of their occupation, their past activities, and other such issues, but I know of no information that would lead me to believe that people are being stopped at the border because of their colour or racial ethnicity or, indeed, their religion.

### CITIZENSHIP AND IMMIGRATION

#### TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PROVISIONS OF IMMIGRATION AND REFUGEE PROTECTION BILL

**Hon. Marcel Prud'homme:** Honourable senators, I have a supplementary question.

I personally will offer my cooperation, but I should like to inform the minister and the government that it is not my intention to fall into this easy paranoia that is descending on Canada. In saying that, I would add that I prefer to see the bill pass as is. If there is any correction, we will do it in due time.

Some honourable senators have so much experience in the political process. However, when they start saying "let us pass the bill now and come back later if it is bad," I am afraid that later will be a long time from now. At the moment, I am of the opinion that those in charge of security — be it CSIS, the RCMP, or the people at the border — have plenty of authority and judgment and, because of the events, are more alert to what is taking place.

Therefore, I would urge my colleagues to be extremely careful. If the decision were made to pass this bill today, I would certainly have objected. I hope now that honourable senators will keep in mind the recent circumstances in their study of Bill C-11 to see whether it all fits.

May I ask kindly that the leader appeal to the government, to the cabinet and to her colleagues in caucus, because I know there is division between those who say "let us get at it," and those who say, "wait a minute." I am sensitive to what Senator Oliver has said, because I have already received complaints. I have 60-plus multicultural groups in my district. I have the largest number of Mosques, the largest number of temples, and I think we should be very careful. This is exactly what the Senate is all about. I would hope that in everything the government encourages us to do it will also encourage us to be extremely sensitive and very careful.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Senator Prud'homme has covered a number of areas and I want to do justice to all of them. First, I did not say that I thought the present Bill C-11 was bad. To the contrary,

I think the bill is good. What I do hope I said to the Honourable Senator Oliver is that perhaps it has not gone far enough. Perhaps there will be, in addition, new regulations that we will decide need to be put in place.

As to the timing of those, let me assure every honourable senator in this chamber that the government is very much on high alert as to security, defence issues and the whole issue of terrorism, both globally and within Canada. There will not be the normal process. I would suggest whereby if we pass this bill any suggested further changes may never happen. If it is determined the other changes are necessary, I am led to believe things will happen quite rapidly.

With respect to taking a message to my colleagues, it is important that the message of the Prime Minister be reiterated by all of us. That is, as we look around our country we see Canadians as Canadians, we do not start putting labels on those Canadians. That should apply to our day-to-day activities and relations with each other, and to border crossings as well.

### FOREIGN AFFAIRS

#### TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PEOPLE OF AFGHANISTAN

**Hon. Consiglio Di Nino:** Honourable senators, the discussions we have had in the last few days should concern all of us. I hope that we all share the dread and fear that I feel about what may come. As a threat of an American military strike in Afghanistan looms ever closer, scores of Afghan civilians are fleeing their country. Some 1.5 million refugees are now amassing around the Afghan-Pakistani border. The living conditions in these camps are atrocious, without adequate water and without adequate food.

My question to the Leader of the Government in the Senate is this: Notwithstanding what happens in terms of military action in Afghanistan, a complex humanitarian crisis needs to be addressed. In light of this government's lobbying of the human security agenda, can the Leader of the Government in the Senate indicate to us what the government is doing to respond to this humanitarian crisis for the Afghan people at the Afghan-Pakistani border?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I am proud to announce that the government has already taken its initial step on this particular issue. Today, the Honourable Maria Minna, Minister for International Cooperation, announced a contribution of \$1 million to the United Nations High Commissioner for Refugees. The contribution is to help respond to recent emerging needs of Afghan refugees in recognition that there has been 20 years of conflict in that country, and three years of devastating drought, and that Afghan population is extremely vulnerable.

**Senator Di Nino:** Honourable senators, I should like to congratulate the minister for that great response. It is one of the best ones she has given me to the few questions I have asked.



• (15/0)

I should like to ask the minister if she could tell us what role, if any, Canadian NGOs would be playing in this area? Also, what support would these NGOs expect to receive from the federal government, over and above the commitment of which the minister has just informed us.

**Senator Carstairs:** I do not know what role the NGOs will be playing in this area, but I will raise with the minister the honourable senator's concern and express his view that NGOs should be participating in this and that they will require some help to do so.

**Senator Di Nino:** Will the leader of the government bring a response back to this chamber?

**Senator Carstairs:** I could certainly bring back a response to this chamber, if that is what the honourable senator desires.

[Translation]

### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have three delayed responses to questions raised in the Senate on May 9 and 31, 2001 by Senator Forrestall regarding the plans to acquire maritime helicopters and the question raised by Senate Gustafson on May 30, 2001 regarding the downturn in the grain seed and oilseed sectors.

### NATIONAL DEFENCE

#### REPLACEMENT OF SEA KING HELICOPTERS— PROCUREMENT PROCESS—LIST OF MAJORITY-OWNED CANADIAN COMPANIES INVOLVED

*(Response to question raised by Hon. J. Michael Forrestall on May 9, 2001)*

The Government of Canada is committed to fostering competition consistent with our obligations under the Agreement on Internal Trade.

There are no known Canadian companies that produce a helicopter specific to the needs of the Maritime Helicopter Project; therefore, the basic helicopter will be provided by an offshore contractor. There are, however, Canadian companies capable of providing the mission systems we require. Through a competitive process a Canadian company could win that contract.

Canadian ownership is not a requirement for competing in the Maritime Helicopter Project and as such the Government has not requested nor does it possess detailed information on the ownership status of the potential prime contractors for this project. A list of companies that have expressed interest in participating in the Maritime Helicopter Project is available on the Maritime Helicopter Project Web site.

[ Senator Di Nino ]

#### REPLACEMENT OF SEA KING HELICOPTERS—RISK ANALYSIS PRIOR TO SPLITTING PROCUREMENT PROCESS— DENIAL OF REQUEST FOR COPY

*(Response to question raised by Hon. J. Michael Forrestall on May 31, 2001)*

An article appearing in the May 30, 2001, edition of *The Ottawa Citizen* referred to a Department of National Defence document regarding the Maritime Helicopter Project and contingency costs. Based on the information contained in the article the Government has concluded that the article actually refers to two documents, one of which was prepared by Public Works and Government Services Canada (PWGSC) and one of which was prepared by the Department of National Defence (DND).

The DND document the article appears to be referring to was prepared as part of a Treasury Board submission in 2000 and is, therefore, a cabinet confidence and not subject to release under the Access to Information Act.

The PWGSC document the article appears to be referring to was prepared on May 9, 2001, and would thus have not been included in an Access to Information request made in the time period to which Senator Forrestall was referring.

### AGRICULTURE AND AGRI-FOOD

#### DOWNTURN IN GRAIN SEED AND OILSEED SECTORS

*(Response to question raised by Hon. Leonard J. Gustafson on May 30, 2001)*

Overall the agriculture and agri-food sector is strong, and makes significant contribution to the Canadian economy, but it is well known that the past few years have not been an easy time for many producers. Canadian farmers face a number of challenges, whether they be trade, weather, environmental issues or growing consumer concerns about the food they eat. However, farm income, particularly in the grains and oilseeds sector, is a concern largely because of overproduction in some parts of the world, some of it stemming from massive trade distorting subsidies in other countries, world grain and oilseed prices are low and our producers are affected by those low prices.

The grains and oilseeds sector continues to be under financial stress in 2001 although some improvement is projected. Canada's grain and oilseed producers depend very heavily on export markets, and the prices they receive for their products are determined on world markets. Because of excellent production conditions in many parts of the world over the past few years, supplies are abundant and this has pushed prices down. The export subsidies extended by the European Union and the Loan Deficiency payments provided by the U.S. have had a further negative effect on world prices.

For this reason, the federal, provincial and territorial governments have an extensive safety net package in place to help producers deal with income variability. Following many months of discussion, the federal, provincial and territorial governments finalized last July a three-year framework agreement that will provide up to \$5.5 billion in safety net funding to Canadian producers. The deal will see an investment of up to \$3.3 billion in federal funding over the next three years, with up to an additional \$2.2 billion provided by the provinces. These funds will constitute the basis of Canada's farm income safety net package, which includes fall cash advances, the Net Income Stabilization Account program, crop insurance, province-specific companion programs, and a new, ongoing disaster protection component, the Canadian Farm Income Program (CFIP).

The new framework is a balanced agreement that will respond well to the overall needs of the sector, as well as to province-specific concerns. Federal, provincial and territorial governments remain committed to providing long-term income security for Canada's producers.

Before the current framework agreement, the Agricultural Income Disaster Assistance (AIDA) program benefited thousands of farmers in the Prairie region and many others across the country. In its first year, AIDA provided close to \$665 million in payouts to Canadian producers. For 1999, enhancements were made to the program in order to provide higher levels of assistance to those who needed it most. It is currently estimated that total payments for the 1999 AIDA program will be in the neighbourhood of \$921 million. Through both AIDA and provincial disaster assistance programs, significant levels of government funding have been used to support Canada's agricultural sector, a majority of which went to grain and oilseeds producers. We are confident that CFIP, which is the new national disaster assistance program, will continue to provide needed financial aid to producers.

On March 1, 2001, the federal government announced an immediate cash injection of \$500 million in new federal funding to address the challenges facing Canada's farming community. In combination with the traditional provincial contribution of 40%, the total new funding for the sector will amount to \$830 million. Together with existing safety net funding, there is now a federal investment in farm income safety nets of \$1.6 billion, more than in any year since 1995.

The federal government is working with the provinces to find the most effective ways to use this new funding to help farmers, and the solutions found will vary from province to province. Any new programming that may be developed by

the provinces will be implemented in such a way that Canada will continue to meet its trade obligations.

In addition, the Government of Canada has increased the borrowing limit for the Spring Credit Advance Program (SCAP). For 2001, producers will be able to borrow up to \$50,000 interest-free from the SCAP, more than double the previous limit of \$20,000. This could mean that up to \$700 million in interest-free loan money would be available to producers in order to help provide them with the cash they need to begin spring seeding for the 2001 crop year.

With respect to rural Canada, technological progress in agriculture and in other industries has been the basis of the continued economic growth and prosperity that Canadians have experienced over the past decades. To help ensure that rural communities share in these benefits, the federal government supports the expansion of value-added agricultural production and the expansion of other industries with related employment opportunities in rural areas. For instance, the Canadian Adaptation and Rural Development (CARD) fund provides \$60 million a year to national and regional initiatives that assist in moving the agri-food industry toward greater self-reliance. A major portion of CARD funding is targeted at providing rural communities with the economic opportunities they need to remain strong and prosperous.

In conjunction with existing safety net funding, the additional combined grant and loan assistance will go a long way toward alleviating the stresses faced by many farmers today. Together with the agriculture sector, the federal government will continue to focus on how we can move beyond crisis management, and prepare ourselves to face the challenges of being competitive over the long haul.

[English]

## ORDERS OF THE DAY

### IMMIGRATION AND REFUGEE PROTECTION BILL

#### SECOND READING—DEBATE ADJOURNED

**Hon. Jane Cordy** moved the second reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

She said: Honourable senators, it is my pleasure to rise today to speak on second reading of Bill C-11, the proposed Immigration and Refugee Protection Act. This modernization of Canada's immigration system, the first major overhaul since 1978, strikes the balance that Canada needs in the 21st century.



On the one hand, this bill gives us the tools we need to close Canada's back door to those who abuse the system and to those who would threaten the safety and security of Canadians and of our neighbours. There is no question that the measures contained in this bill are now more significant, in light of the tragic events in the United States last week.

As we consider our response to these events, we must ensure that we act responsibly and in accordance with our fundamental values. This bill will also allow Canada to open its front door wider, both to those genuinely in need of Canada's protection and to the immigrants that Canada will need in order to grow and prosper in the future.

It is with Canadian traditions and values and with new global challenges and threats in mind that the government has sought to introduce a balanced package of immigration reforms. These reforms would maximize opportunities for social integration and economic growth on the one hand while it would ensure public confidence in the system on the other.

I should like briefly to touch on some of the many important reforms contained in this bill and its accompanying proposed regulations.

Honourable senators, Bill C-11 is the result of extensive consultations with Canadians, stakeholders and representatives over the last five years. The bill includes significant amendments completed last spring by the House of Commons Standing Committee on Citizenship and Immigration completed last spring.

Bill C-11 is framework legislation. It contains the important core principles that govern Canada's immigration and refugee protection programs. Provisions affecting fundamental rights remain in the proposed act, while the procedures and practices left to regulation will allow the government to quickly and proactively respond to uncertainties, threats and opportunities in a fast-paced and increasingly globalized world.

I am pleased to see that included within the bill is an innovative approach to consultation on these regulations. The minister will be required to table before each House of Parliament, for referral to the appropriate committees, any proposed regulations respecting a large number of key issues.

There are many provisions in this bill that will give the government the tools it needs to protect the safety and security of Canadians. With the growing international problem of trafficking in humans and people smuggling, it is incumbent upon us to ensure that our immigration system contains effective enforcement provisions. International and unpredictable threats to public health and safety are, and will continue to be, taken very seriously.

For this reason, the proposed bill strengthens the existing regime for preventing persons associated with organized crime, war criminals and persons who pose a security threat from entering, passing through or remaining in Canada. This includes

front-end security screening for refugee claimants that will enable the government to identify inadmissible indications as early as possible so that enforcement action can be taken.

A provision is included that allows a refugee claim to be suspended or terminated in cases where an individual is found inadmissible on grounds of security, organized crime or human rights violations. There is a streamlining of the process for removing serious criminals who are not Canadian citizens from Canada as quickly as possible, while maintaining the discretion for immigration officers to take individual circumstances into account.

This new legislation is tough on criminal abuse, but it is not tough on the great majority of people, both immigrants and refugees. It creates a series of new offences for abuse of Canada's generosity, including a penalty for assisting someone in gaining immigration status in violation of the law.

Penalties for trafficking in humans of up to life in prison bring this penalty into line with the offence of trafficking in drugs. As well, the proposed act creates a new inadmissibility class for those who commit fraud or misrepresentation on immigration applications.

Honourable senators, I am also pleased to see that the bill proposes a streamlining of Canada's refugee determination process through greater use of single member panels. The new legislation takes into account our obligations to extend protection to those in need, both in Canada and abroad.

These obligations are found in the 1951 Geneva Convention relating to the status of refugees and in our Charter of Rights and Freedoms. They embody the humanitarian values that Canadians hold dear.

More important, this legislation provides the government with the tools to make these determinations quickly through a streamlined process by consolidating decision making at the immigration and refugee board, which has become a model to countries around the world. It will allow the government to exclude serious criminals and security risks from the refugee determination process.

Bill C-11 also provides access to a pre-removal risk assessment that will ensure that Canada does not send failed refugee claimants back to a country where they may be at risk upon return. In addition, for the first time, it will give unsuccessful claimants recourse to an appeal on the merits of their claim.

Honourable senators, the Minister of Citizenship and Immigration commented over the weekend that we must be cautious not to bow to a knee-jerk reaction sparked by the trauma and fear of last week's terrible events. She is quite right. I think that this bill is measured and balanced and takes into account that Canada has objectives that exist alongside the need to combat international terrorism.



Primary among those objectives is the need to build a prosperous, multicultural Canada. In this regard, immigration is a great source of strength for our country.

• (1520)

By 2011, all labour force growth will come from immigration. By 2031, all population growth will come from immigration, and a global competition is on to attract the best and the brightest. Bill C-11 provides the government with the tools to position Canada to take advantage of the global movement of people.

Bill C-11 allows certain temporary foreign workers, including recent foreign graduates from Canadian schools, to apply for permanent residence without leaving Canada. The proposed regulations to accompany this bill will also allow most spouses of temporary workers to work while in Canada.

New regulations for the selection of skilled workers as permanent residents will allow Canada to choose those who have transferable skill sets rather than using an unwieldy occupation-based model. New regulations will also permit faster processing and greater incentive for potential business immigrants to seek admission to Canada.

These policies will be very effective in attracting and retaining the skilled workers and business people Canada needs to compete in a knowledge economy.

I am also pleased to point out to honourable senators that Bill C-11 continues to emphasize family reunification as a cornerstone of Canada's immigration policy. Bill C-11 accomplishes this goal by simplifying the application process for spouses, common law and same-sex partners and for children.

It also introduces a moderate expansion of the family class by raising the age of dependent children from under 19 to under 21 and by eliminating the bar on immigration for those spouses and children who are inadmissible on the basis of excessive demand on our health care system. For the first time, Bill C-11 will include parents as members of the family class.

Honourable senators, we have all been profoundly affected by the terrorist attacks on New York and Washington. The Government of Canada recognizes that terrorism is an international problem requiring international solutions. Canada is a leader in this regard. The most effective strategy against terrorism is to stop terrorists before they reach our borders. However, if they should reach our borders, Bill C-11 gives the government the tools it needs to respond quickly and firmly to threats to Canada and to North America. While it closes the back door to threats to national security, this bill also allows Canadians to open the front door and their hearts to legitimate immigrants and refugees who have so much to offer to us.

Now, more than ever, Canadians need the reassurances, efficiencies and protections afforded in this proposed new legislation.

**Hon. Consiglio Di Nino:** I believe that Bill C-11 includes a proposed quota of immigrants and refugees that Canada would like to attract in the years to come. Does the honourable senator have that number?

**Senator Cordy:** The number I have is that Canada strives to have one per cent of its population coming into the country annually. That is the only number I have.

**Senator Di Nino:** If memory serves me correctly, and I am not sure of my numbers, a majority of immigrants that now come to this country are either through the family reunification sponsorship program, with which this side totally agrees — and I believe you will find the record has been consistent there — or as refugees. Enlarging the definition of family, and, in effect, potentially attracting larger numbers of sponsored or self-selected immigrants, may take up a great deal more of that quota that is now available.

Does that quota have flexibility, in order to deal with the other components of the immigration system, such as the business components and the skilled persons that we require, et cetera, or is the government going to be inflexible in that one per cent of the quota?

**Senator Cordy:** I do not have the numbers by which it would rise in terms of people coming into our country. I do know, however, that by allowing family reunification adjustment to our country is that much easier for immigrants and refugees coming into Canada.

I do not have the numbers. I shall try to get them for the honourable senator tomorrow.

**Senator Di Nino:** We can deal with it during the hearings at committee. I would like to take a closer look at the comments made by my colleague and respond to it at an appropriate time. Therefore, I move adjournment of the debate.

On motion of Senator Di Nino, debate adjourned.

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

**Hon. Wilfred P. Moore** moved the second reading of Bill C-24, to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts.

He said: Honourable senators, I am pleased today to begin debate at second reading of Bill C-24. This bill is an extremely important piece of legislation, one that is being put forward to provide vital new tools to help law enforcement and criminal justice officials in the fight against organized crime and to provide law enforcement generally.

We are all aware of the significant problem of organized crime in this country and, indeed, worldwide. Criminal groups have become involved in a wide range of illegal activities that include illegal trafficking in drugs and control of organized prostitution. Other activities of criminal groups include smuggling of people, illegal traffic in firearms, cross-border smuggling of contraband such as tobacco and alcohol, serious economic crime such as credit card fraud, insurance fraud, stock market fraud, and even environmental crimes such as the illegal dumping of toxic wastes.

Canadians and persons around the world are paying a serious price for these crimes. We pay in health costs linked to drug abuse and related illnesses such as HIV and hepatitis. The smuggling of people, often under dangerous conditions, threatens human lives and often leads to slavery-like conditions for those persons paying the criminal gangs that transport them. Financial and telemarketing fraud schemes cost victims thousands, sometimes tens of thousands of dollars. Frequently, the victims are people who can least afford it, such as elderly persons on fixed incomes.

Finally, for many crimes, the whole country pays in terms of insurance rates, interest rates and lost tax revenues.

Honourable senators, we must not forget the cost in terms of public safety and public security. In some areas, the open activity of organized criminal groups has led to an atmosphere of lawlessness and fear. There has been a significant number of murders of gang members by other gang members. Innocent third parties have also been killed. In addition to killings, local officials and ordinary citizens have been threatened and intimidated.

• (1530)

All of this is unacceptable, honourable senators. We have laws in place that help to deal with these problems, but these must be strengthened. Bill C-24 addresses this need with respect to organized crime, as well as making general improvements in our law enforcement capability.

The proposals of the bill fall into four categories. The first is measures to improve the protection of people who play a role in the justice system from intimidation. Second is the creation of an accountable process to protect law enforcement officers from criminal liability for certain otherwise illegal acts committed in the course of an investigation. Third is legislation to broaden the powers of law enforcement to forfeit the proceeds of crime, in particular the profits of criminal organizations, and to seize property that was used in crime. Fourth is the creation of a number of new offences targeting involvement with criminal organizations.

The first aspect of Bill C-24 involves a range of steps to deal with the intimidation of persons involved in the criminal justice system. The criminal justice system depends for its proper functioning upon the participation of various members of our community. These are the professionals responsible for the

investigation and prosecution of crime, the judges and those who deal with convicted offenders, and members of the public who participate as witnesses and jurors.

For criminal justice stakeholders to be able to participate effectively, they and those with whom they are associated must be free to act without being subjected to threats, prejudice or physical injury. In recent times, prosecutors, judges, witnesses, police and prison guards, as well as their families, have been subjected to such intimidation. As we are also aware, journalists who provide the important service of reporting on crime have also come under threat. Bill C-24 includes a number of provisions to deal with this intimidation.

Honourable senators, new provisions of the Criminal Code will provide greater protection of jurors by limiting access to names, addresses and occupations of potential jurors. Jurors should not have to question whether their involvement in a case may lead to physical or emotional harm to them or their loved ones. By protecting the privacy of jurors, we can take the necessary steps to address this problem.

Also, Bill C-24 makes important changes to the Criminal Code's treatment of the offence of intimidation itself. First, the bill increases the penalty associated with the existing offence of intimidation to five years imprisonment. Furthermore, a new intimidation offence has been added to the Criminal Code, with a maximum penalty of 14 years. This new offence deals specifically with acts of intimidation that target justice system participants and journalists. The new section makes it an offence to harass, stalk or threaten these people with the intention of provoking a state of fear so as to impede the administration of justice or impede such persons in the performance of their duties.

I turn my attention now to the aspect of Bill C-24 that seeks to protect law enforcement officers from criminal liability when, for legitimate law enforcement purposes, they commit acts that would otherwise be illegal.

The Supreme Court of Canada, in its 1999 judgment in *Regina v. Campbell and Shirose*, stated that the police were not immune from criminal liability for criminal activities committed in the course of a bona fide criminal investigation. However, while observing that "everybody is subject to the ordinary law of the land," the Supreme Court explicitly recognized that:

...if some form of public interest immunity is to be extended to the police..., it should be left to Parliament to delineate the nature and scope of the immunity and the circumstances in which it is available.

Honourable senators, law enforcement officers do need a limited justification for acts or omissions that would otherwise be illegal when they undertake these acts and omissions for the purpose of good-faith investigations. In the absence of sufficient protections in the current law of Canada, the Supreme Court's judgment has had a significant negative impact on law enforcement in Canada. The impact has been especially great on undercover operations targeting organized crime.



As noted in the white paper entitled "Law Enforcement and Criminal Liability," tabled in the Senate in June 2000, long-accepted and valuable law enforcement techniques have been called into question by that ruling. For example, the judgment has called into question the legality of routine purchases by law enforcement officers of contraband to gather evidence for prosecutions. Similarly, the judgment has affected the ability of law enforcement officers to pose as criminals by participating, temporarily and in a controlled manner, in the activities of their targets. In a wide range of areas, the vital public interest of ensuring that law enforcement can effectively gather evidence and infiltrate criminal groups has been affected. Particular affected areas include investigations into the smuggling of people, illegal traffic in firearms, hate crimes, cross-border smuggling of contraband such as tobacco and alcohol, international counterterrorism investigations, the use of counterfeit payment cards, and offences related to fisheries and environmental protection. While the impact is perhaps most critical in regard to organized crime, it covers a wide range of criminal activity, including terrorism.

Bill C-24 responds to this situation. Under the bill, a public officer engaged in the enforcement of an act of the Parliament of Canada would be able to engage in conduct that would otherwise constitute an offence, provided certain important limiting conditions are satisfied.

First, before the officer can act, he or she must be designated by a competent authority. Further, as a fundamental condition and limitation of the scheme, the officer must also believe on reasonable grounds that committing the act or omission is reasonable and proportional in the circumstances. Under law, this determination of reasonableness and proportionality will be made with regard to such matters as the nature of the actual act or omission, the nature of the investigation, and the reasonable availability of other enforcement techniques.

Nothing in the proposed scheme would provide immunity for the intentional or criminally negligent causing of death or bodily harm, the wilful attempt to obstruct, pervert or defeat the course of justice, or the conduct that would violate the sexual integrity of an individual.

The scheme includes ministerial accountability through the designating role of responsible ministers as competent authorities. The designations may be subject to specific conditions. Further, if designations are misused, they can be taken away.

The scheme also requires the special authorization of certain acts and omissions by senior officials responsible for law enforcement. Except in exigent circumstances, such authorization is required for acts or omissions that would likely lead to the serious loss or damage to property and for the direction, by officers, of all acts or omissions by agents.

Furthermore, there is a provision for public annual reports by all competent authorities, as well as for a full parliamentary review of the limited justification scheme within three years.

Honourable senators, the provisions applying to the limited justification scheme do not propose the granting of blanket immunity to law enforcement officers. Rather, there are numerous safeguards. For many years, law enforcement authorities were working on the basis that they had common-law immunity. What the Supreme Court did was make it plain that there was not common-law immunity and called upon Parliament to put in place a legislative scheme if it saw fit. This is what the law enforcement justification scheme will do, through a balanced and effective scheme with strict limitations and conditions.

Another major set of provisions in the legislation before us today is a new approach to criminal organization offences. The bill contains a new definition of "criminal organization" and three new criminal organization offences.

In 1997, in Bill C-95, Parliament directly targeted criminal organizations by providing a definition of "criminal organization," increased investigative powers and increased penalties for those committing crimes in conjunction with criminal organizations. While these provisions have been of benefit, our experience with them has shown that they can be improved.

• (1540)

Law enforcement officials and provincial Attorneys General have called for a new definition of "criminal organization" and for offences that respond to the full range of involvement in criminal organizations. This bill responds to these priorities.

The new definition of "criminal organization" will target criminal groups of three or more individuals, one of whose main purposes or activities is either committing serious crimes or making it easier for others to commit serious crimes. This is an improvement on the current definition, which refers to five or more individuals, which required proof of the commission of a series of offences over five years and did not adequately include the concept of facilitation of offences. This new definition also more closely follows internationally accepted definitions of organized criminal groups.

The new definition also clarifies that the definition of "criminal organization" does not apply to a group of persons that form randomly for the immediate commission of a single offence. This helps to appropriately limit the scope of the definition.

I now move to Bill C-24's improvements to the law on proceeds of crime. Currently, the proceeds-of-crime provisions are directly related to the designated drug offences and a list of other offences referred to as "enterprise crimes." Over the years, as organized crime evolved and moved into new areas of criminal activity, new offences were added to the list of enterprise crimes. Today, the list of such crimes stands at over 40, with no indication that we will stop adding new offences to the list.



Bill C-24 eliminates the list approach and expands the application of the proceeds of crime to all federal indictable offences. This should be subject to the exception of indictable offences that are excluded by regulation. In this manner, the profits from the commission of most serious crimes would be subject to forfeiture. This will simplify and expand our approach with respect to proceeds of crime. However, existing protections to ensure that seizures are appropriate and subject to defined procedural requirements will remain in place.

Other provisions of Bill C-24 will give criminal justice officials new powers with respect to foreign confiscation orders. The ease with which financial resources can be transferred around the world presents a challenge for all countries in the attempt to fight crime by seizing its proceeds. Canada must be in a position to play its part in addressing this challenge and offering necessary assistance to countries that have successfully investigated organized crime within their jurisdiction and ordered their assets to be confiscated.

Accordingly, the bill proposes a number of amendments to the Mutual Legal Assistance in Criminal Matters Act that would allow Canada to enforce foreign confiscation orders.

An additional element of Bill C-24 that I will highlight for consideration of the Senate deals with offence-related property. The bill contains amendments to make the offence-related property forfeiture regime in the Criminal Code apply to all indictable offences under the code and expands the application of the regime to all real property, subject to a proportionality test.

As I stated, three new criminal organizational offences have also been created. These replace and substantially improve upon the criminal organization offence that was created at section 467.1 of the Criminal Code by Bill C-95.

The first offence targets participation in or contribution to the activities of criminal organizations. Taking part in the activities of a criminal organization, even if such participation does not itself constitute an offence, will now be a crime where such actions are done for the purpose of enhancing the ability of the criminal organization to facilitate or commit indictable offences. This is an important recognition in law that those who knowingly help criminal organizations in this way are criminals themselves.

The second new offence targets those who aid, abet, counsel or commit any indictable offence in conjunction with a criminal organization. The emphasis in this provision is the commission or other direct involvement in indictable offences when this is done for the benefit of criminal organizations.

The third new offence deals specifically with leaders in criminal organizations. Leaders of criminal organizations pose a unique threat to society. Operationally, they threaten us through their enhanced experience and skills. Motivationally, they threaten us through their constant encouragement of potential and existing criminal organization members. By effectively

targeting the leaders of criminal organizations, we go after those who ultimately are the most responsible for the wide range of harm caused by organized crime and should bear the heaviest responsibility. This section makes it an offence for an individual as a member of a criminal organization to knowingly instruct, directly or indirectly, the commission of an offence for the benefit of, at the direction of, or in association with a criminal organization.

Honourable senators, we must ensure that the leaders of criminal organizations are not able to hide behind the screen of activities engaged in by their subordinates or agents when in fact these leaders are ultimately responsible for these activities.

These three new offences should mark a major step forward in the fight against organized crime. Nevertheless, some questions have arisen as to why Bill C-24 does not simply make it an offence to be a member of a criminal organization.

Honourable senators, quite aside from the Charter of Rights and Freedoms considerations that would be raised by a membership offence, the three new offences that I have just mentioned will be more effective tools than a provision that criminalizes membership. Membership can be extremely difficult to prove because organizations often operate underground or covertly. Further, the criminal groups may decide to continually change the indicators of membership in order to stay one step ahead of the law. Also, simply targeting membership would fail to recognize that individuals who are not formal members of organized gangs often play a role in facilitating crimes and benefiting criminal organizations. The approach that Bill C-24 takes with respect to criminal organization offences will therefore be preferable to criminalizing membership.

I should also emphasize that the penalty provisions for the three new criminal organization offences will proceed on an increasing scale of seriousness. The participation offence is punishable by a maximum five years of imprisonment, the party liability offence by a maximum of 14 years of imprisonment, and the leadership-related offence by a maximum of life imprisonment. Enhanced sentencing provisions are also added, including mandatory imposition of consecutive sentences for the offences and a presumptive parole ineligibility period of one half the imposed sentence. Given the serious harm caused by organized crime in Canada, we must ensure that the punishments we impose adequately reflect the nature of the illegal activity.

Honourable senators, as I have indicated, the threat posed by organized crime is very real and very grave. While we have tools in place to help deal with this, these tools must be improved. At the same time, we must ensure that the tools that we put in place are appropriate tools. The provisions of the criminal law must not be allowed to overshoot their appropriate scope. We must ensure, while fighting organized crime and making improvements generally to the effectiveness of law enforcement, that we do not have unwanted negative impacts on the lives of ordinary Canadians.

In this last regard, I am heartened by the knowledge that the Department of Justice engaged in extensive consultations on the provisions of this bill before it was introduced. These consultations included but were not limited to the consultative process on the law enforcement justification provisions that occurred with respect to the white paper tabled in the Senate in June 2000. In addition to that public paper, stakeholders representing a wide range of interests were brought in for a number of extensive meetings on all provisions of this legislative project. Numerous suggestions were made and acted upon. This has helped ensure that Bill C-24 will be a balanced, responsible and effective piece of legislation.

After most serious reflection and work, honourable senators, the appropriate balance has been maintained. I believe that Bill C-24 reflects the law enforcement needs of this country and does so in a reasonable and fully accountable manner. I urge all honourable senators to lend their support to this bill.

• (1550)

**Hon. A. Raynell Andreychuk:** Honourable senators, I have a question for the Honourable Senator Moore. We have before us today an immigration bill that touches upon some of the international activity involving the movement of people. Thankfully, most people move for valid reasons. However, we are aware that we must monitor both some immigration and some refugee issues. The honourable senator has now introduced legislation that is aimed at some of the criminal activity internationally.

We have been graphically reminded of terrorism. With these pieces of legislation, how does the government propose to attack what are now interrelated issues? Whenever we talk about terrorism, we get into the criminal activity that is prevalent both offshore and onshore and the migration of people, legally and illegally. What we are missing is some national strategy to attack it all rather than what appears more and more to be a piecemeal activity. Would the honourable senator care to comment on that?

**Senator Moore:** I thank the honourable senator for her question. I am not sure what will come out of the deliberations in the House of Commons as a result of what happened last week. This legislation was drafted and prepared before those events took place. I appreciate your comment with respect to the obvious overlap of the responses that may be required and the authorities that will be needed. Perhaps legislation that will address your concerns will be forthcoming. In reply to an earlier question today concerning the immigration bill, our leader said that other changes may be forthcoming with respect to that statute and, perhaps, with respect to this one.

**Senator Andreychuk:** Honourable senators, we must look at the trafficking of migrants and an international convention, as well as some national enabling legislation. We should then look at drug strategies and gangs and criminal activity strategies and money laundering. More and more, the international community is saying that these activities are all interrelated. Perhaps we have not been so successful because we have been looking at the

nature of the activities in a segmented way. Surely it is time to see how we can draw them all together in a more coherent way so that we might be more successful.

Perhaps I should not have used the September 11 incident. However, it has been of some concern that the trafficking of migrants is an activity that is very much like the trafficking in drugs. It moves one step ahead of those who wish to enforce the laws because we have only one convention over here for certain purposes and we have not interrelated the administration, the services, the conventions and the laws.

**Senator Moore:** I do not know whether that was a question or an observation of merit. I hope this legislation will answer some of those questions. To repeat what I said earlier, as we move forward, perhaps we will see other legislation come forward that will tighten up the overlapping issues that you raise.

**Hon. Pierre Claude Nolin:** Honourable senators, I also have a few questions for the honourable senator. A few years ago, we studied a bill in response to a decision from the Supreme Court in the *Feeney* case. The Supreme Court decided that it was unconstitutional for a policeman to gain access to a private dwelling without a warrant, regardless of the fact that in the *Feeney* case the accused had signed a statement to the effect that he had committed the crime for which he was accused. Those of us involved in the Legal Committee remember that case. We helped to craft an amendment to the Criminal Code. That was an important piece of legislation because the court said that the Criminal Code was not respectful of the Charter.

If I look at the second group of remarks that the honourable senator alluded to in his speech, he talked about commission of infractions by law enforcement officers. What kind of control is built into the bill to ensure that the court will not tell us, in one or two years hence, "Gentlemen, we understand what you tried to do. We agree with the principles stated in section 25.1(2), but you breeched the Charter because of paragraphs (1), (2), (3) and (4). Go back and do your work and correct the code"?

What is in this bill to ensure that we will not have to redo it in two years?

**Senator Moore:** Honourable senators, I should like to have an opportunity to go through the bill and respond in complete detail. It is certainly the thrust of the bill to put in place provisions that will enable officers to do their job without abusing their office. They will be limited to the scope of their activities proportionate to the nature of the offence they are investigating and not beyond that. Perhaps we can go into that in more detail at committee, but that is how I understand the nature of it.

**Senator Nolin:** We will look at that thoroughly in committee, but if you look at the way the bill is written, it covers two types of situations. In the first situation, there is no urgency. There is a set of rules for when an officer is asking a superior for a warrant and the superior is then asking the responsible person in charge — basically, federal and provincial ministers — to grant the request. That is for normal, non-urgent business.



There is another set of sections that deal with urgency. If you recall the *Feeney* case, it would have been labelled "urgent." Even then, we crafted a set of techniques where, even in an urgent situation, the police officer needed a warrant. That is why I asked the question. If it is not urgent, they go to the minister to get permission to commit an illegal act. If it is not urgent and they can go to the minister, they can go in front of another authority that is much more or less influenced by the internal matter of the organization — that is, the department or the police organization.

Does the honourable senator understand my concern? I think we all share this concern. We are all in favour of giving the police force all the tools they require, and even more, to help them in the performance of their job properly, but there are some limits. It is our responsibility to ensure that those limits are not crossed but, if they must be crossed, they are crossed properly. That is my concern.

On motion of Senator Stratton, for Senator Kelleher, debate adjourned.

## YOUTH CRIMINAL JUSTICE BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the second reading of Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

**Hon. A. Raynell Andreychuk:** Honourable senators, I rise to speak to Bill C-7.

Many years ago — and it certainly does seem to be many years ago — I sat as a family court judge with jurisdiction in juvenile matters and then later with responsibilities under the Young Offenders Act. At that time, my experience as a judge taught me that, after a family fails in curbing the criminal behaviour of a child, after a school fails and after a community fails, there is an overinflated expectation that the courts somehow have the power and the capability to change the behaviour of these young people for the better.

It was my experience that the courts could sometimes assist the very resources that failed in the first place, the family, the school and the community, but the courts' ultimate weapon — and in many cases it was a weapon — was to put the child in custody. Very little happened to children in the custody of the court because the kinds of assistance needed by such children are best given in the community, not separate from it.

Trying to speak to Bill C-7 is a bit like trying to read the bill; one is tempted to cover everything to do with children. Where to start and where to finish? That quandary is evident in the bill and

it is also true of my ability to speak to it. I sympathize with those on the ground who must implement this bill, if passed, in Toronto; in Estevan, Saskatchewan; in Yellowknife, Northwest Territories; or in Rankin Inlet.

I want to dispel a notion that seems to come through in Bill C-7, the notion that somehow the Young Offenders Act failed because of those who were charged with its implementation. Bill C-7 tends to take away discretion from those who are entrusted to implement the act. Numerous guidelines and justifications are requested. Does this show a mistrust of the system, implying that somehow the system under the Young Offenders Act failed both society and young offenders? For every policeman who stated he could not do anything for children under 12 years old who were beginning to get involved in criminal activity, there were scores who did in fact help those under 12. In many cases, community policing depends upon the goodwill and professionalism of those in the system.

When the Young Offenders Act was first put in place, many working within the system had high expectations for more freedom and latitude to use the tools provided by the act to address individual cases and to ensure that each and every child received the kind of attention necessary for rehabilitation, for curbing bad behaviour, and for instilling accountability and respect for the system.

There was no lack of goodwill or professionalism from those within the system, from the judges to the prosecutors to the defence counsel to the policemen to the caseworkers and those within our institutions. Rather there was a lack of resources. The expectations of young offenders were not met. Resources were constantly requested to allow the tools found in the act to be used as intended.

While the term may be trite, "unsung heroes" best describes the caseworkers who laboured under huge caseloads in Canadian youth courts. If you knew the countless hours these workers spent with each young offender, you would understand that the Young Offenders Act had possibilities. However, the tools proposed in the Young Offenders Act were never delivered in reality.

Honourable senators, Bill C-7 seems to be heading down the same proverbial road paved with good intentions. Where will it lead for the young person who is caught in criminal activity; for the society that seeks protection, safety and security; for the victim seeking justice and accountability; for parents, in some cases seeking assistance and in others needing to be made more responsible? Where will it lead for the deliverers of the justice system who need support, respect and infinite resources to accomplish their tasks or for the provinces whose responsibilities it is to administer the highly complex youth justice system contemplated by Bill C-7?

One of our society's best tools for assisting young people is our school system, and yet it seems to be a mere footnote to this act.



I urge all senators to read Bill C-7 in its entirety and then to reflect on two questions: First, do you understand the meaning of the bill and the consequences of its passage? We have many fine lawyers amongst us here in this Senate, but this highly intricate bill is difficult to follow and often contradictory in its objectives. Even our lawyer colleagues will find it difficult to understand this bill. How then can the youth who are targeted by this act receive a clear message about its meaning and the future consequences of their criminal behaviour?

Second, I would ask senators to reflect on whether you honestly believe that this act helps you to discharge your responsibility as legislators to society and in particular to children? So often we as parliamentarians claim that our children are our future, and that our actions are taken in the best interests of our children, and that we want to put the needs of children ahead of other concerns.

We have watched two earlier unsuccessful attempts to change the Young Offenders Act. Bill C-7 seems to be another commendable attempt by the Minister of Justice to satisfy the many competing demands made by various political parties. Yet, sadly, she has achieved only a patchwork of appeasements, something for everyone, long on words and but lacking a clear message to our young people and to society. What is the public policy statement or direction that we should glean from Bill C-7?

Let me step back and put Bill C-7 in its historical context.

• (1610)

Canada started with the Juvenile Delinquents Act in the early 1900s. Criminal court was for all citizens. There was no specialized court for young children, juveniles and young offenders. When the Juvenile Delinquents Act was proclaimed, it was a piece of criminal legislation within the federal government's mandate to legislate under its criminal authority as set out in the Constitution.

Children were testing limits as part of the maturation process, but they needed to be accountable if the limits they were testing were violations of criminal activity. If one delves into the speeches at the presentation of the Juvenile Delinquents Act, one can see that the reason a youth justice system was set up at that time — called the Juvenile Delinquents Act — was that bringing young people into adult court would be unfair, improper, unjust and of little consequence to young people. There was a belief that young people in their maturation did not have the capability to understand what it is to violate a criminal law and to suffer the full consequences.

The Juvenile Delinquents Act was an attempt to place criminal responsibility on young persons, but the key element was that a lack of maturation demanded that they could not face the full effect of the criminal justice system and they could not understand it. Therefore, it would be unfair to make them fully accountable in a criminal sense.

Parents were the cornerstone of the Juvenile Delinquents Act. They were responsible for bringing the young person to court and for assisting that young person in understanding the court. In fact, the Juvenile Delinquents Act, after many decades, tended to carry a social services perspective rather than a criminal perspective. Those people working under the act spent much time attempting to change the direction of the lives of the young people before them.

Early on in the development of the Juvenile Delinquents Act there was an understanding that because there was a maturation process, one could not deal with criminality alone. Therefore, all of the aspects of moulding children, setting limits on children, giving clear messages to children and making children accountable constituted something larger than criminal activity.

As the decades went by, particularly in the 1950s, a new awareness emerged that perhaps we had moved too much into the social services field in our criminal justice system and that we had ignored the difference. In many jurisdictions, including mine in Saskatchewan, a young person would be sentenced for criminal activity, but their sentence under custody would be extended for social services reasons that, in my opinion, were exclusively under provincial jurisdiction.

We found also that young people were not given their rights. A new awareness was developing in the world that while children were different and needed to be treated differently, the social services model had gone too far and that there needed to be a redress in the balance. This growing awareness of children as independent of their parents and independent of other adults deserved to be taken into account in the criminal law process. Thus, the need to change the Juvenile Delinquents Act took on new urgency.

The due process model was not being followed. Parents were the focus — not the children. If one looked at the average court for juvenile delinquents, it was very informal and there was no test of guilt or innocence. The questions were this: Was the child in difficult circumstances? Was there improper behaviour, sometimes tantamount to criminal behaviour and sometimes borderline? The will and the wish was to correct the problems and to set the young person on the appropriate course.

However, in doing so, we restricted the child's rights and often found that their sentences were longer than those handed down in adult court. We found that they were perhaps admitting to acts that were not criminal in nature and therefore the court should not have jurisdiction over them.

Consequently, there was a mood to strengthen the due process in the Juvenile Delinquents Act, which received great attention in the 1970s. In respect of the new Young Offenders Act, there was great debate: Did we need a new Juvenile Delinquents Act or did we need substantial amendments to the existing act, although the direction of the act was favourable? There was a feeling that a new face on juvenile justice was necessary, that a complete wiping of the slate would be appropriate and that a new act would be put in place.

The discussions and debates that took place leading to the Young Offenders Act included all segments of society. They included the practitioners within the system of juvenile justice, non-governmental organizations, several federal departments and many provincial departments. There were frequent federal-provincial discussions. Many of the terms and regulations that followed, as well as the Young Offenders Act, were the result of negotiations and compromises because the Juvenile Delinquents Act was subject to differences from province to province.

A notable difference was the age of maturation. Some provinces set the maturation age at 16 years, while others set the age at 18 years. This was viewed as inconsistent, if federal jurisdiction were to be the hallmark of any criminal justice system for young people.

There was a question of public safety versus the needs and rights of the child. When those two elements conflicted, there were great debates about whether our emphasis should be on the needs, rights, accountabilities and responsibilities of the child. However, public safety, if conflict could not be resolved, would overtake the needs of the child and, where necessary, the freedom of a child would be taken away — the child would be placed in custody. As well, other measures would be taken against the child so that there could be, as all criminal law legislation looks to provide, a measure of public safety.

The rights to due process versus the rights of the child and that child's ability to handle the conduct of a case were looked at. Support mechanisms to assist the child were put in place. There were great debates at that time to determine whether a child could advise counsel. If we say that a person in maturation does not understand the full concepts of a criminal court, would that young person be able to properly and fully advise counsel? Would, therefore, the lawyer be substituting his or her own opinions as to what is right and wrong and not listening to the child's wishes? There was some talk about child advocacy advisers as opposed to legal counsel. In the end, several measures were put in the Young Offenders Act to continue the due process model, but also to ensure that the young person would still receive the guidance that they needed.

• (1620)

There was strong recognition at that time that the courts were no magic answer. What society really needed, the real key to changing children, would be not rehabilitation by a process that begins in the courts but a true rehabilitation process that started from day one with children. Were they in the proper parental environment? Were they receiving the preschool support systems that they require? Was the school system providing the kinds of learning environments that various children needed, whether it was an issue of dyslexia, lack of parental control or what have you?

The key was not alternate measures; the key was that there would be an underpinning now, that when we separated the social services system from the criminal system it would take

hold and work. Therefore, all of the resources would be as early as possible. Early intervention was the word in the Young Offenders Act — dialogue before its implementation.

Even with the act, we looked to alternate measures to ensure that there would not be criminalization of young people and only where all our resources failed would they enter the court process. Custody was to be a last resort.

There were some sceptics at the time of the Young Offenders Act. The Young Offenders Act, section by section, demanded great financial resources to implement it and to work properly. I believe that, at that time, the Young Offenders Act was oversold. It was sold as a rehabilitation model. We have found, after its implementation, that the degree of incarceration in Canada is one of the highest in the world.

Why did that happen? The resources were not put into rehabilitation and alternate measures. I stand before you as a judge who worked in the young offenders courts for 12 years. In those 12 years, all of those fine resources that the Young Offenders Act contemplated were scarce. The federal-provincial negotiations were not very successful. There was not much transfer of new resources to the provinces, and those resources that were transferred to the provinces were quickly eaten up in developing new custodial facilities.

I spent 18 months in the province of Saskatchewan attempting to find closed and open custody facilities for young people because we had to have them up and running quickly. Therefore, the first dollars were used on custodial facilities and what was left was used for alternate measures. Saskatchewan was no different than others.

Many years after the implementation of the Young Offenders Act, federal-provincial negotiations were continuing with respect to the Young Offenders Act. However, by that time, there were escalating numbers of young people being shifted and diverted into the Young Offenders Act. This was the commencement of the cut back of resources in provinces and to provinces with respect to young people and social services needs for young people.

Consequently, the Young Offenders Act has taken the hit for many other problems and the lack of resources to deal with children. Many police officers and caseworkers have said that the court is the last hope, that there are no resources for these children and that, if we get them before the court, the court can mandate them. Many judges and many courts were ingenious in pressuring governments to provide alternate sources.

What does one do when a child comes before the court over and over again and when there are only one or perhaps two alternate measures and they do not fit that particular child? You attempt to put them in custody because their behaviour is escalating. You attempt to appeal to social services to provide the in-house counselling. Yes, some children received it; others did not.



Where does that get us? Federal and provincial governments, rather than sitting down and rethinking how to make the Young Offenders Act work better, began to say that the legislation was unworkable. However, when we started to look at changes to the Young Offenders Act, in the 1995 position — and that was my first involvement with the discussion in the Senate — we found that the amendments to the Young Offenders Act were based on some false premises.

One premise that I wish to put forward was that there was an escalating criminal activity with young offenders at all levels, violent and non-violent. Many of us working in the system questioned those statistics and assumptions. The federal government's response was that they were working on collating statistics, that they were not quite ready, but that they would prove this escalation.

It is interesting to note that when the Standing Senate Committee on Legal and Constitutional Affairs finished its deliberations on the amendments, in 1995, the day after we passed the amendments we found underneath our doors the final statistics that in fact proved that there was a non-escalation in 1995 and that the movement of escalation in the mid-1980s to 1990 had reversed.

We were also told at the time that the amendments to the Young Offenders Act as well as the Young Offenders Act complied with the new Convention on the Rights of the Child and that the government had done its deliberations and was satisfied, clause by clause, that the Young Offenders Act complied with the rights of the child. That was despite questions at the time as to whether our act properly separated adults and young offenders.

That brings us of course to the present Bill C-7. What is my difficulty with Bill C-7? It is highly intricate and complex. Many of the clauses in Bill C-7 are exactly the same as the Young Offenders Act. Therefore, the question is raised whether we need a complete omnibus act. Are we misleading the public?

In the declaration of principles clause of Bill C-7, while there are elaborations that will be helpful to young people, public safety is no longer included and public protection is no longer a hallmark and in fact a priority. That section has been removed from the principles outlined in the Young Offenders Act.

Many of the amendments within Bill C-7 — and they are too numerous to document at this point — are somewhat minor changes in wording. The question is: Is there more to the interpretation of the new words? We do not know. The committee will have a long and horrendous task going clause by clause to look at the legal implications of the new words and to marry them with the case law and the Young Offenders Act, to determine whether they are legitimate and substantive changes or whether they are minor and of little consequence.

What will happen is that everyone must be retrained in the proposed new act, nuances and all. We will not be able to rely

automatically on the case law that has been built up over 20 years. We will be forced to resubmit to the courts many of the fundamental questions that we had hoped had already received interpretation in the Young Offenders Act. We will have to deal with whether this is a superficial, feel-good change or a substantive change.

• (1630)

It is very difficult, therefore, to know whether the public and young offenders will be better served by the new act because so many of the changes are less than substantive. As I have said, the protection of society is no longer part of the principles, and that is worrying. It has been asserted at various points in the bill that the long-term protection of the public will be enhanced by this bill. However, what about immediacy? Many of the long-term measures contemplated here will be of limited benefit if they are implemented only when children come to court. They should be implemented long before a child gets to the court. If a child has mental disabilities, behavioural difficulties, is having problems in school or has already been deemed to be violent or tending to violence, those issues should be dealt with, for the protection of both the child and society, long before the child reaches the age of 12. We must question whether this bill will be a panacea for these problems or a smoke screen in order that we will not have to deal with them at an earlier age.

The alternative measures have been elaborated upon and have been deemed extrajudicial. Are they more substantive or are we simply embellishing the measures in the Young Offenders Act and using the term "extrajudicial measures" as a response to the fact that Canada has been faulted for not complying with Article 40(3)(b) of the United Nations Convention on the Rights of the Child? Canada has been underutilizing these alternative measures and incarcerating more than the United Kingdom, Australia, New Zealand and even the United States. Are we legitimately responding to the concerns about our lack of compliance with the UN Convention on the Rights of the Child, or are we simply continuing what we have done by putting a reserve on the sections that state that adults should not be held in the same place as children, with "children" defined as those people being under 18 years of age?

There is a section which deals with alternate measures. Two other sections of the bill deal with the UN Convention on the Rights of the Child. Clause 30(3) adds to section 7(2) of the existing act, with regard to pretrial detention, that the courts have regard for the best interests of the young person if they are going to put them in facilities with adults.

It is deemed that this is more in line with Article 37(c) of the Convention on the Rights of the Child. However, the Convention on the Rights of the Child states that there should be a separation of adults and young people, in the best interests of children. Canada put a reservation on the covenant, indicating that they did not agree that this separation was always necessary.



Many of the clauses of Bill C-7 have adults and young people together for practical purposes. Some of our outlying areas simply do not have the facilities or the manpower necessary to separate them. When the Young Offenders Act was first introduced, I recall being part of a judges' committee that said, "That is fine, but you must put them in separate facilities." If you are in some of the outlying communities, such as Île-à-la-Crosse in Saskatchewan, there are hardly the necessary facilities for adults. If that is the case, then where would we hold young people who need detention? Consequently, compromises were reached in the Young Offenders Act.

We were faulted by the international community for not complying with the provisions of the international covenant. The amendments contained in Bill C-7 need to be scrutinized to see whether they give full compliance to the covenant or whether, as one practitioner put it, we are continuing "to fudge our responsibilities."

If we scrap the Young Offenders Act, Bill C-7 will have many of the same provisions. However, case law will not be built into it. If we institute the new provisions of Bill C-7, and there are many, we will require more time from the courts in terms of hearings. This raises another concern around our compliance with the international covenant; that is, judges will be sitting not only as judges under juvenile justice provisions, but they will also be sitting as judges in adult court. While Bill C-7 removes the transfer provisions from the Young Offenders Act, it replaces them by sentencing hearings in adult court. This gives rise to some of the same problems that are now in the predisposition stage, while before they were at the pretrial stage.

Again, I think we have some of the same dilemmas. One wonders if we have eliminated the question mark concerning our compliance with the international instrument or whether we have added to it by having this combination of elections; that is, superior court judges sitting with provincial court judge responsibilities and, at times, with superior court responsibilities.

I believe that this measure blurs the line between adult court and juvenile court even more than is done in the Young Offenders Act. One needs to see whether this is the case or whether it can be explained by the officials and the minister so that it is in the best interests of both society and children.

The Young Offenders Act did not succeed because the resources needed to succeed were not put in place. Many of the provisions of the Young Offenders Act are similar to the provisions of Bill C-7. There are also many additional provisions added to the bill. As we all know, the administration of justice lies in the hands of the provinces. The money that the government has indicated it will allocate to this act falls short of the expectations to make Bill C-7 work better than the Young Offenders Act. We need to know if the government costed these new measures. We need to know from the provinces what they contemplate providing as resources; will they be realistic or on paper only? We need to marry up, then, the needs and the expectations of the act with the reality and the capability of the justice system.

• (1640)

Many people have attacked this bill, including provinces. The criticism is that it will require massive dollars to retrain those within the justice system to be able to handle this proposed new act. Perhaps these dollars would be better put into alternate measures and programs for youth, both in and out of custody.

We do not know what the real cost will be. Whatever we thought of the merits of the gun registry process, whether we were for it or against it, at least we were given a cost factor to implement this new scheme. We need to know whether the implementation of Bill C-7 has more realistic numbers attached to these new procedures.

We also need some attention to school behaviour in this proposed legislation. It is dreadful shortcoming here, as it was in the Young Offenders Act. There should be an aspect that takes into account that many young people spend many hours in our school systems. This proposed legislation contains very little that speaks to the behaviour and the needs of children within the school and the needs of the teachers to equip themselves to deal with young people who are in conflict with the law.

Clause 125(6) of Bill C-7 indicates that teachers may have access to the disposition records of young people. However, the Canadian Teachers' Federation has indicated that they wish this access to be mandatory because the Young Offenders Act is too permissive. It is not the responsibility of the teachers to know when young offenders are before the courts if the teachers are not specifically contacted. We know that caseworkers are overburdened and, during pre-sentencing, do not always reach the schools. If young people have some violent, disruptive, counterproductive or negative tendencies that impact on the school system, teachers need to be equipped with the appropriate information if they are to accept these young people into the classrooms.

The Canadian Teachers' Federation is not advocating zero tolerance and removal of any young person from the youth justice system. The federation is advocating that teachers must be part of the process, that they must have the tools to do their job properly. One wonders why, despite the representations made by the Canadian Teachers' Federation, the government did not see fit to respond to this.

Many of the people in the Quebec judicial system indicate that Bill C-7 will disrupt a positive system into which they have put resources and time. They believe that the system works for the benefit of their society of young people and their communities. I will not go into detail, as I understand that some of my colleagues will be addressing this. However, it is a matter that needs to be underscored.

We also must point out that the House of Commons had the benefit of dealing with two other bills that died in the House of Commons. However, they had time to make an assessment. They were able to determine whether Bill C-7 improved on those previous bills or whether there are now more loopholes.

In speaking to many members of all parties, including members from the majority party, one gets the impressions that the amendments came so late, both from members individually and from the minister herself, that they were not properly analyzed. Therefore, the Bill C-7 before us includes amendments that have not been properly studied.

At the time the amendments of 1995 were proposed and passed by this Senate chamber, the Standing Senate Committee on Legal and Constitutional Affairs asked that there be a joint committee to study the overall needs and assessments of young people in society, not just the criminal aspects. Unfortunately, the government saw fit not to take our advice. In fact, there was a House of Commons committee that looked at criminal activity of young people specifically.

**The Hon. the Speaker *pro tempore*:** Honourable Senator Andreychuk, I must advise you that your 45 minutes have expired.

Honourable senators, is leave granted for Senator Andreychuk to continue?

**Hon. Senators:** Agreed.

**Senator Andreychuk:** I apologize for the length of my speech.

The Young Offenders Act and the previous Juvenile Delinquents Act were the acts with which I dealt with on a daily basis, not on an academic basis. There are many things that I want to say. I tried today to not discuss the legalities, which I believe the Standing Senate Committee on Legal and Constitutional Affairs will be noting clause by clause. I will reserve my comments to them.

To complete this overall remark, I believe that we asked for a look at the Young Offenders Act and the consequences of a youth justice system in the context of the overall needs of young people. We felt that we were inordinately zeroing in on criminal activity when we should have been in a preventive mode. We should be looking at what children need long before they come before the criminal justice system. The criminal justice system should not be used as the back door to provide resources for children who badly needed them earlier. We should not be talking about adding only a few clauses for victims in Bill C-7. We should have done the job that the Standing Senate Committee on Legal and Constitutional Affairs wanted in 1995.

Bill C-7 seems to have lost in the list of justifications and principles the notion that children are in a maturation process. The creators of the first Juvenile Delinquents Act were not wrong. We have now blended into Bill C-7 so much of the adult system that it is difficult to tell the systems apart.

Surely, the basis of having a separate system was to say that the adult system did not fit young people. It did not fit because of the maturation process. Young people were still for malleable and more open to rehabilitation.

Nowhere in this proposed legislation do I see the emphasis on those capabilities. There seems to be the same kind of rush to determine that we will not put people into custody but will look to alternate measures. The adult system is grappling today with not to incarcerate but to use alternate methods. We do not see in Bill C-7 the recognition that we are dealing with young people whose hope of rehabilitation should be better than those of adults.

May I conclude by saying that the Senate was on the right track in 1995 when it gave the government a chance to look at the whole area of criminal justice and the needs of young people. I see an attempt by a minister to appease some of the most vocal people in the community about the ills that they see in the present system.

The answers that the minister has chosen to those ills are those imbedded only in a criminal justice system and not outside the system, where I believe they should have been placed. The answers to the needs of society do not lie within the criminal system; they lie with parents, communities, schools and all of us to ensure that the young people begin their upbringing with the maximizing of resources. We should be assuring that poverty is attacked and that families are given the proper supports long before they reach the courts.

• (1650)

I believe that we have an opportunity today to give this legislation proper scrutiny from a legal and judicial context, as well as to comment on the needs of young people and to perhaps suggest that the government now sit down in a federal-provincial concept to look at the issue of children, not in a segmented way, but in a global way. I know there have been conferences with respect to poverty only, but the needs of young people go way beyond that. I believe that we can make progress within the context of this study if we are given the proper ability to study the issues.

I hope that the committee will be afforded the points of view of all who have asked to be heard. I hope that we will make certain that provincial government representation is brought to the table so that we understand whether the load of responsibility that will be transferred in the administration of justice is one that the provinces are geared toward and capable of handling financially and otherwise. I trust that we will hear, if possible, from many of those within the system who work day by day and know the real problems and not just those who the press highlight for us. It was very difficult for judges, case workers and probation officers to come before committees. They often speak at a level that says something more than their political masters may want them to say. However, in this case, I hope that those in the administration of justice provincially and federally and those on the front lines working on the Young Offenders Act and those who will have to work with the new act will be given a chance to be heard. They were not fully heard when the Young Offenders Act was put forward and the message of getting resources was not heard.



I hope that we will in fact do justice both to the community and the young people we claim to put above all others. I trust that the Senate will not be a place that will take just the words of the act at face value but will see whether we can put actions to those words within the act.

Honourable senators, I will reserve my other comments for the committee. I thank the Senate for its patience in hearing me.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, our colleague Senator Andreychuk has raised a number of questions that go to the very principle of the bill. Although I do not see the sponsor of the bill in the chamber, I would hope that someone on the government side would address these questions and these concerns that speak to the principle of the bill. It would be very difficult for us in this house to seriously address the principle of the bill at second reading without dealing with these issues that have been raised. It will not be acceptable to have simply silence on the other side on some vague assumption that, "Oh, well, the committee can look at it." Questions of the principle of the bill have been raised. The government has an obligation to respond to those questions before we even get to the point of deciding whether we will adopt the bill in principle at second reading and send it to committee.

I underscore that point because a number of years ago, when the thesis of normalization was very much in vogue, it was applied at that time to the mental hospital setting. When governments bought into this new idea of normalization so that we would close down all psychiatric institutions and similar types of institutions and people would receive therapy in the community, there was no follow-up at the community level. There were no psychiatric social workers engaged throughout the communities across all the provinces. Where did these people end up? They are, to a large extent, those persons who are either expanding the numbers of street people or are in our jails.

Honourable senators, a fundamental change is made based on an assumption. Sometimes the assumption can be good, such that rehabilitation will be better achieved and better facilitated in the normalized community milieu, where there are community workers, social workers, psychiatric social workers and, in this instance, corrections workers, people who have an understanding of criminology and who specialize in that field in their social work training.

The bill, in many clauses, as I read it, makes explicit reference to what the provinces can do, and that means dollars being required from provincial budgets. It is clear to any observer that the provincial governments in the whole area of social justice and social services are severely strapped to find resources. It seems to me that we must hear a concrete budgetary proposition advanced by the federal government as they are making this change, one that will rely in terms of implementation on the provinces making available a whole network of corrections counsellors to work with young people in the community.

This, honourable senators, is what the International Convention on the Rights of the Child speaks to, as is alluded to by this bill in one of the preambular paragraphs and alluded to in

the speech given when the bill was introduced in this house. My own view is that the bill does not comply with the provisions of our international commitments made in 1990 when Canada ratified the International Convention on the Rights of the Child. What we have been hearing from the government side are motherhood statements. This is serious business requiring dollars. Unless there is some indication that real dollars will be made available, this approach will not work.

Therefore, honourable senators, I think it is incumbent on the government to answer some of these questions and speak to the principle of the bill before we proceed any further.

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I would like to point out that the sponsor of Bill C-7 was here, in the Senate, to listen to the better part of the speech given by Senator Andreychuk. I wanted people to know that she was here, because Senator Kinsella indicated she was not.

Honourable senators, many of us listened carefully to Senator Andreychuk's speech, which speech was interesting, complete and provided a lot of information.

[English]

**Senator Kinsella:** Honourable senators, my distinguished colleague is right that Senator Andreychuk has raised a number of issues and that all honourable senators present have noted them. However, we are requesting that either a representative of the minister in the house or her deputy respond to these questions, or at least the sponsor of the bill in the Senate. We are pleading for someone please to answer these questions. If the sponsor of the bill is not even here to answer the questions, at least the deputy leader should adjourn the debate until he finds the answers to the questions.

On motion of Senator Beaudoin, debate adjourned.

[Translation]

• (1700)

## TRANSPORT AND COMMUNICATIONS

MOTION TO AUTHORIZING COMMITTEE TO STUDY  
MEASURES TO ENCOURAGE FRENCH-LANGUAGE  
BROADCASTING—DEBATE ADJOURNED

**Hon. Jean-Robert Gauthier,** pursuant to notice given June 6, 2001, moved:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada.



He said: Honourable senators, the purpose of this motion is to examine the feasibility of a national francophone community television network, the Canadian francophone community network.

This network would target the francophone communities in each province and territory. It would contribute to achieving two objectives of the government: first, to allow communities to see themselves, to talk to each other and to communicate in French throughout Canada; second, to create a climate that would give everyone, especially young people, the opportunity to develop and reaffirm ties with other francophone communities in Canada and to seize the opportunities that growing globalization and galloping technology have to offer. The network would also ease regional disputes over access to educational television in French serving certain regions.

I know that certain provinces are reluctant to agree to an educational television network. Education is a provincial jurisdiction. Many Canadian provinces do not have the critical mass of young viewers to justify funding a provincial network. Only three provinces have educational television, TVO/TFO in Ontario, Télé-Québec in Quebec, and Access Network in Alberta. The only province offering programming in both of the country's official languages is Ontario, through TVO-TFO.

For two years now, I have been trying to open up provincial borders to French-language television. TFO, the French network in Ontario, applied to the CRTC for permission to broadcast its signal in Quebec. It asked the CRTC to require Quebec's cable companies to offer the TFO signal on an optional basis. The CRTC refused, claiming that it was not in the national interest to approve this application. Yet TFO is available in New Brunswick and Télé-Québec is available in several locations in Ontario.

In short, I was very disappointed in the CRTC's ruling and the reasons given. Senators should know that the CRTC is a federal institution governed by the Official Languages Act. I believe that section 41 of this act is executory and not declaratory, as some claim, and that the CRTC must abide by it. Section 41 reads as follows:

41. The Government of Canada is committed to

(a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development; and

(b) fostering the full recognition and use of both English and French in Canadian society.

It is clear that section 41 is executory. All federal institutions must comply with the legislation. Unfortunately, since the legislation was passed in 1988, the interpretation of section 41 by various ministers of justice has differed from mine and that of several experts in the field of legislative interpretation.

There is confusion, bureaucratic inertia and a failure to act on the part of ministers. I am not the one saying this. The

Commissioner of Official Languages points this out in her annual report.

All justice ministers since 1988 have followed the advice of their senior officials and adopted this minimalist interpretation of section 41 of the Official Languages Act. They are merely paying lip service, making meaningless statements.

I do not understand why the CRTC held in its ruling (CRTC 2000-22) that it was not in the public interest to grant TFO's request. After all, 1551 of the 1563 stakeholders, or 99.3 per cent, were in favour of the application.

The majority of the opponents, 12 in all, or 0.7 per cent, were — with the exception of one individual, who had misunderstood — organizations that had particular interests to protect, mainly cable distribution companies in Quebec.

It needs to be pointed out that TFO has had considerable difficulties and has so far been unable to persuade the major cable companies in Quebec to carry it under acceptable conditions. The sad reality is that they prefer to carry American programming. Apparently, that is more worthwhile financially.

After the negative decision by the CRTC, the federal cabinet issued Order in Council P.C.2000-511. This dealt with French-language broadcasting services in minority francophone communities and called upon the CRTC to produce a report taking regional concerns and requirements into account. The CRTC'S report, "Achieving a Better Balance," was released on February 12, 2001. This is a good report, an interesting one. To my knowledge, no parliamentary committee has studied it or shown any concern about it. I raise this question because it is important to us.

If the Senate had its own official languages committee, I am sure that report would have been carefully examined, but we do not.

The motion before you today is an important one. The Senate has a role to play or to assume in fostering the development of the official language communities. This motion reads:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in francophone minority communities across Canada.

At its Web site, the CRTC says, and I quote:

Our mandate is to ensure that programming ... reflects ... our linguistic duality.

The word "duality" is the most important one, because Canada has two official languages and its policies on language treat them equally.

The fact that approximately one quarter of the people of Canada speak French and that it is present in every region of the country should encourage us to provide quality programming accessible to all. The Canadian broadcasting system should reflect the diversity of the francophone communities across the country. There is cultural and linguistic wealth to share among Canada's regions. The language and culture of a francophone in Ontario or the West differs from that of a francophone in Quebec or the Maritime provinces, an Acadian, for example. We all speak French, but with accents peculiar to our own region.

It must include as well the transition from analog to digital. It will change and improve. It will make more channels accessible and extend the broadcast area. This new technology offers

promise for the future to francophones living in a minority situation. This is a unique opportunity to correct the gaps in analog distribution that limited access to more French-language television services in Canada.

I hope that the committee will make a positive recommendation and that the CRTC document in question will be given serious consideration.

On motion of Senator Robichaud, on behalf of Senator LaPierre, debate adjourned.

The Senate adjourned until Thursday, September 20, 2001, at 1:30 p.m.

## CONTENTS

Wednesday, September 19, 2001

	PAGE		PAGE
<b>The Late Honourable Jean-Maurice Simard</b>		<b>Transport and Communications</b>	
Tributes. Senator Lynch-Staunton .....	1226	Committee Authorized to Meet	
Senator Carstairs .....	1226	During Sitting of the Senate. Senator Bacon .....	1233
Senator Robertson .....	1227	<b>Legal and Constitutional Affairs</b>	
Senator Corbin .....	1227	Committee Authorized to Meet During Sitting of the Senate.	
Senator Murray .....	1228	Senator Milne .....	1233
Senator Losier-Cool .....	1228	<b>Business of the Senate</b>	
Senator Comeau .....	1229	Senator Murray .....	1233
Senator Rivest .....	1229	Senator Robichaud .....	1233
Senator Fairbairn .....	1229	Senator Prud'homme .....	1233
Senator Gauthier .....	1230	<b>Role of Culture in Canada</b>	
		Notice of Inquiry. Senator Gauthier .....	1233
<b>SENATORS' STATEMENTS</b>		<b>QUESTION PERIOD</b>	
<b>Usher of the Black Rod, Mary McLaren</b>		<b>Canada-United States Relations</b>	
Tribute on Departure. The Hon. the Speaker .....	1230	Meeting Between Prime Minister and President—	
<b>The Late Ernie Coombs</b>		Request for Information. Senator Forrestall .....	1234
Tribute. Senator Carstairs .....	1231	Senator Carstairs .....	1234
<b>The Late Kimberly Rogers</b>		Senator Forrestall .....	1234
Tribute. Senator Atkins .....	1231	<b>National Defence</b>	
		United States—Terrorist Attacks of September 11, 2001—	
<b>ROUTINE PROCEEDINGS</b>		Possible Retaliatory Measures—Contribution by Armed Forces.	
<b>Privileges, Standing Rules and Orders</b>		Senator Forrestall .....	1234
Fourth Report of Committee Presented.		Senator Carstairs .....	1234
Senator Stratton .....	1231	<b>Canada-United States Relations</b>	
Fifth Report of Committee Presented.		Terrorist Attacks of September 11, 2001—Limitation of Possible	
Senator Stratton .....	1232	Retaliatory Measures. Senator Roche .....	1235
<b>Study on Matters Relating to Fishing Industry</b>		Senator Carstairs .....	1235
Report of Fisheries Committee Tabled. Senator Comeau .....	1232	<b>Transport</b>	
<b>The Senate</b>		Airline Industry—Effect of Terrorist Attacks on	
Committee of the Whole—Replacement of Sea King Helicopters—		United States—Government Support. Senator Stratton .....	1235
Appearance of Officials on Procurement Process—		Senator Carstairs .....	1235
Notice of Motion. Senator Robichaud .....	1232	<b>Citizenship and Immigration</b>	
<b>Adjournment</b>		Terrorist Attacks on United States—Effect on Provisions of	
Senator Robichaud .....	1232	Immigration and Refugee Protection Bill. Senator Oliver .....	1236
<b>Income Tax Conventions Implementation Bill, 2001 (Bill S-31)</b>		Senator Carstairs .....	1236
First reading. Senator Robichaud .....	1232	<b>Customs and Revenue Agency</b>	
<b>Official Languages Act (Bill S-32)</b>		Terrorist Attacks on United States—Effect on Border Procedures.	
Bill to Amend—First Reading. Senator Gauthier .....	1232	Senator Oliver .....	1236
<b>Social Affairs, Science and Technology</b>		Senator Carstairs .....	1236
Study of Document Entitled "Santé en français—Pour un		<b>Citizenship and Immigration</b>	
meilleur accès à des services de santé en français"—		Terrorist Attacks on United States—Effect on Provisions of	
Notice of Motion. Senator Gauthier .....	1233	Immigration and Refugee Protection Bill. Senator Prud'homme .....	1237
		Senator Carstairs .....	1237
		<b>Foreign Affairs</b>	
		Terrorist Attacks on United States—Effect on People of	
		Afghanistan. Senator Di Nino .....	1237



Senator Carstairs ..... 1237

#### **Delayed Answers to Oral Questions**

Senator Robichaud ..... 1238

#### **National Defence**

Replacement of Sea King Helicopters—Procurement Process—

List of Majority-Owned Canadian Companies Involved

Question by Senator Forrestall

Senator Robichaud (Delayed Answer) ..... 1238

Replacement of Sea King Helicopters—Risk Analysis Prior to

Splitting Procurement Process—Denial of Request for Copy

Question by Senator Forrestall

Senator Robichaud (Delayed Answer) ..... 1238

#### **Agriculture and Agri-Food**

Downturn in Grain Seed and Oilseed Sectors

Question by Senator Gustafson

Senator Robichaud (Delayed Answer) ..... 1238

#### **ORDERS OF THE DAY**

##### **Immigration and Refugee Protection Bill (Bill C-11)**

Second Reading—Debate Adjourned. Senator Cordy ..... 1239

Senator Di Nino ..... 1241

##### **Criminal Code (Bill C-24)**

Bill to Amend—Second Reading—Debate Adjourned.

Senator Moore ..... 1241

Senator Andreychuk ..... 1245

Senator Nolin ..... 1245

##### **Youth Criminal Justice Bill (Bill C-7)**

Second Reading—Debate Continued. Senator Andreychuk ..... 1246

Senator Kinsella ..... 1252

Senator Robichaud ..... 1252

##### **Transport and Communications**

Motion to Authorizing Committee to Study Measures to

Encourage French-Language Broadcasting—Debate Adjourned.

Senator Gauthier ..... 1252





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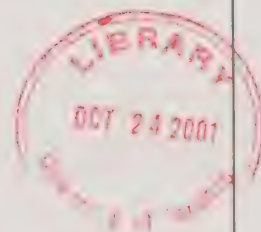
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OFFICIAL REPORT  
(HANSARD)

Thursday, September 20, 2001

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THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Thursday, September 20, 2001

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

[English]

### THE LATE HONOURABLE JOSEPH-PHILIPPE GUAY, P.C.

#### TRIBUTES

#### **Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, on July 30 of this year, Manitobans lost a dear friend and an exceptional representative, the Honourable Joseph-Philippe Guay.

Senator Guay represented St. Boniface, in my home province of Manitoba, as a parliamentarian for 22 years. His dedication to his constituents and to all Canadians was legendary. Because of that, he never lost an election and won several by acclamation. He was first an alderman and went on to become Mayor of the Town of St. Boniface. He was a strong voice for the Franco-Manitoban population and objected strongly to the amalgamation of St. Boniface with the City of Winnipeg, feeling that it would lessen the independence of his community.

[Translation]

Senator Guay was the only member of Parliament from among his contemporaries to have held so many positions throughout his career, sometimes concurrently: MP, Parliamentary Secretary, Chief Government Whip, Minister of State for Multiculturalism, Minister of National Revenue. As a senator he continued for a time to serve as a minister without portfolio, and was extremely active on a number of committees, particularly the Standing Committee on Internal Economy, Budgets and Administration and the Joint Committee on Official Languages.

Senator Guay often stated publicly how proud he was of the Right Honourable Pierre Elliott Trudeau's policies on minorities and what an honour he considered it to represent the francophone community, the values of multiculturalism and his own heritage as a Métis and relative of Louis Riel.

[English]

Senator Guay was publicly recognized by a wide variety of groups that bestowed honours upon him, from the Boy Scouts of Canada to the Canadian Wildlife Federation to the Royal Canadian Legion. In 1957, he was knighted as a member of the Order of Saint Gregory the Great by Pope Pius XII. However, none of these professional accomplishments can encompass the larger-than-life spirit of Joe Guay.

Senator Guay was well loved by his many staff members and well regarded by his peers. Employees in other offices would

often be aware of his impending arrival because they could hear him singing down the hallways.

Joe once told his constituents that he was "proud to be their loudmouth in Ottawa." His resounding voice was his trademark, but his ability to listen to people was renowned. He would have an endless stream of people in his offices, both in Manitoba and in Ottawa, describing their personal problems and requesting his help. He always made time for anyone who knocked on his door.

As a young man, Joe was a navy chief instructor in Manitoba and then became a shoe salesman. In the course of his travels, he would often meet people in rural Manitoba who were too poor to buy shoes, people who wrapped their feet in cloth as protection from our harsh Canadian winters — so he would give them a pair.

Honourable senators, Joe had a big heart and a big family. He had six children of his own, and he adopted his sister-in-law's child when she died in childbirth. He never missed going home to his family and his beloved constituents on weekends despite the long hours required of his various positions.

His retirement from the Senate prompted numerous and lengthy tributes from his colleagues. A former colleague, the Honourable Royce Frith, stated at that time, "It is absolutely impossible not to like him." Another former colleague, my dear friend Gil Molgat, said that it was impossible to understand how much Joe was loved unless you walked around the streets of St. Boniface with him.

Honourable senators, I should like to convey my condolences and those of all my colleagues to his wife, Marguerite, to his children, Rénaud, Claudette, Marjolaine, Gérard, Gilbert, Lanyse, Rémi and their families.

**Hon. Terry Stratton:** Honourable senators, Joseph-Philippe Guay was a man who served his community, his province and his country with a blunt straightforward approach, much to the consternation of those who sat opposite him and generally cheered by those who sat next to him.

Senator Guay was in politics at one level or another for 35 years and was a powerful voice through his four terms in office as Mayor of St. Boniface. His confrontations with the Mayor of Winnipeg over of the proposed amalgamation of the two municipalities were numerous, but that was a battle he was not destined to win.

• (1340)

Turning his eye toward national politics in the late 1960s, his first victim on the federal scene proved to be a Liberal front-bencher, Roger Teillet, then Minister of Veterans Affairs. Joe snatched the rug out from under his feet, taking the nomination and going on to win three consecutive elections before being appointed to the Senate in 1978.



His decade in the House of Commons, during which he served at various times as Chief Government Whip, Minister without Portfolio, Minister of State and Multiculturalism and Minister of National Revenue, provided him with an excellent background for his 12 years in the Senate.

Joseph-Philippe Guay never forgot his roots, both political and personal. I think we can all appreciate the additional stress and demands on our time that involvement in politics requires. As stated by Senator Carstairs, it is also important to note in this context that he and his wife had seven children.

While people generally laud the accomplishments, they remember the man, Joseph-Philippe Guay, as one who will not soon be forgotten. While I did not know the man — I only met him on a few occasions — our thoughts are with his family today.

**Hon. Joyce Fairbairn:** Honourable senators, I should like to add my own thoughts to those of Senator Carstairs and Senator Stratton on the passing of an old friend. I knew "Joe," as everyone called him — whether he was a member of Parliament or a minister or a senator, it was just "Joe" — when I was first working over on the House of Commons side. All of the attributes he brought to his work on Parliament Hill, which he thought was a calling that he had achieved beyond his wildest dreams, whether it be in the House of Commons or the Senate, went back to where he came from and the history of his family.

Yesterday, we were speaking about Jean-Maurice Simard being such a great representative for Acadians in New Brunswick. Joe Guay was a tremendous representative for francophone minorities, certainly in that keystone province of Manitoba, but also those who were scattered across Western Canada in small areas where many people in Canada would not even believe there is that kind of history. History was very important to Joe Guay. In the battles over the years on issues such as national unity, one could not have found a fiercer fighter for Canada than Joe Guay, a Canada with a very proud Quebec in it.

Others undoubtedly remember Joe for an incredible sense of humour. The two new whips could take lessons from Joe Guay — a very affable, guy, but tough as nails as well. While he was patting you on the back, he was also giving you a little shove in the ribs to ensure that you would be there for him.

Joe made a tremendous contribution to Parliament as a minister. When he came to the Senate, he made friends with everyone.

Going back to Joe's retirement from the Senate, former Senate Royce Frith read a quote from Joe about Canada. Joe said:

There is a richness which Canada will always have, which not too many other countries have: multiculturalism in a bilingual country. It's got to work.

It is a great memory of Joe. It is a memory for me of a wonderful friend, a little man with a very big voice. I send my warmest wishes and sympathies to his family. Indeed, I think

the last time I saw him was at the funeral of Senator Molgat. He was in great spirits, and that is how we will remember him. He made a very fine contribution to this chamber.

**Hon. Senators:** Hear, hear!

## THE LATE HONOURABLE SIDNEY L. BUCKWOLD, O.C.

### TRIBUTES

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is with great sadness that I rise today to commemorate the life of the Honourable Sid Buckwold, who died this past June. While I did not have the honour to serve as a senator during the time when "Senator Sid," as he was fondly known, occupied a seat in this chamber, he left an enduring mark on this institution that is familiar even to those of us who arrived here after his departure.

Although Senator Sid was born in Winnipeg, it was Saskatoon that benefited from his career in public service. He attended university in that province and also studied at McGill. Upon graduating, he went into the family business, Buckwold's Ltd. During the Second World War, he served as an officer in the Royal Canadian Army Service Corps. After his military service, Sid was elected alderman in 1953, the first of several positions in political service to his countrymen.

Before he became the Honourable Sid Buckwold, Senator Sid was known as His Worship, Sidney Buckwold, Mayor of Saskatoon. He served 11 years as mayor in two separate terms and left an indelible mark on the city and its inhabitants. As Mayor of Saskatoon, Sid changed the profile and prominence of the city: He built the first freeway; he moved the railway tracks from downtown and built a shopping centre and Centennial Auditorium on the site; he supported the construction of Mount Blackstrap; he established the Mendel Art Gallery; and he brought the Canada Winter Games to Saskatoon in 1971.

[Translation]

Throughout his entire life, Senator Buckwold played an active role in the city and province of his birth. Among other things, he was a member of the Senate of the University of Saskatchewan and sat on the board of the Dr. Alvin Buckwold services for children with developmental disabilities. He was also president of the St. Paul's Hospital advisory committee.

[English]

The Right Honourable Pierre Elliott Trudeau appointed Sid to the Senate in 1971. Some years after that, as member of the official opposition in the Senate, Sid was relied upon a great deal by the Liberal leadership, for he could be an indomitable but fair-minded opponent. He had a great deal of political experience and judgment, and he played an invaluable role in many political battles, especially in the GST debate when he served as Chairman of the Standing Senate Committee on Banking, Trade and Commerce. He also served as Government Whip in the Senate and as Vice-Chairman of the National Liberal Caucus.

In 1991, after 20 years in the Senate, Sid retired to Saskatoon. His presence was greatly missed in the chamber, partly because he was a very many able senator, involved in many issues still relevant today: issues such as privacy and security, labour relations within government, and the pressures of urbanization on the environment. He was a strong advocate of an elected Senate and called for less partisanship in the Senate and more representation of Canadian regions.

Senator Buckwold was honoured with many public awards, including honorary Colonel of the North Saskatchewan Regiment for his military involvement, honorary Chief Mountain Maker for the construction of Mount Blackstrap, and named Officer of the Order of Canada in 1995 for his service to his country. It was his personal experiences with others that are his real legacy.

Senator Sid was characterized accurately, I believe, as an old-time politician in the most favourable sense of the term. He was friendly and informal with those who were fortunate enough to meet him, and well known for his integrity and common sense. His middle name means "heart" in Hebrew, a name which he changed from a more formal name, and which better suited the warmth which was an intrinsic part of his personality.

• (1350)

Sid was a politician who genuinely liked people. He especially appreciated the liveliness and enthusiasm of children. Both of his brothers died at a young age, and his extended family gave him a great deal of happiness and fulfilment.

I should like to take this occasion to express my sincere condolences to Senator Buckwold's family, including his grandchildren. He is well remembered in this place.

**Hon. David Tkachuk:** Honourable senators, my remarks will centre on Sidney Buckwold, the man and member of the Saskatchewan community, as opposed to his federal politics, since many of you opposite worked closely with him and can speak to those important contributions.

Sidney Buckwold was Saskatchewan's gain and Manitoba's loss. Although he was born in Manitoba, he went on to the University of Saskatchewan and later McGill University but ultimately returned to Saskatchewan.

Known as Saskatoon's most popular mayor for 11 years, over two terms, his down-to-earth personality and warmth epitomized what westerners respect most: Despite being an all around good guy, he also made things happen.

I do not know if honourable senators have made the connection, but Sid resigned as mayor in 1971 to accept Prime Minister Trudeau's offer of an appointment to the Senate. In political tributes, it may seem that reviews are glowing when someone dies. I am not sure if our friends and colleagues are happy when we die, but that is usually what happens. In Sid's case, his reviews were glowing even while he was still alive. I had not yet been appointed to the Senate, but I well remember the stories in *The Leader-Post* and *The Star Phoenix* regarding

Sid's forced retirement from the Senate at age 75. Luckily for me, Senator Buckwold had to retire, thus opening up a seat for either Senator Andreychuk or Senator Gustafson, I am not sure which one. That meant that the next available seat came to me, and I got in, the last one from our province during the Mulroney administration.

Senator Buckwold received tributes his entire life, whether from family and extended family or from the City of Saskatoon, where he was awarded Citizen of the Year in 1971, or by the Governor General when he was invested at Rideau Hall as an Officer of the Order of Canada in 1996.

Sid was a businessman and an expert in municipal politics. He was taken aback by the antics of his fellow senators, especially during the GST debate. He was a gentleman more fitted to diplomacy than partisanship, although let there be no doubt of his Liberal roots. He adapted quickly during that debate and was able to partake in partisanship.

In the 1960s, Sidney Buckwold was sought after by the late Ross Thatcher to run provincially in Saskatchewan. When Davie Steuart, then the Deputy Premier of Saskatchewan was asked by the premier, "Why isn't that Buckwold running for us?" Steuart honestly replied, "He doesn't like you." To which the premier replied, "What has that got to do with it, I don't like him either!"

Another former Mayor of Saskatoon, Cliff Wright, said that Sid Buckwold's greatest accomplishment, in his opinion, and I think in the opinion of most of the people in Saskatoon, was that he took a sleepy prairie agricultural town and imbued it with spirit and pride. Among other things, he was responsible for the Canada Winter Games coming to Saskatoon in 1971. When asked where the athletes would ski, he said he would build a mountain; and he did, albeit a small one, but it is being used to this very day.

Sid's vision of downtown Saskatoon was prescient to today's work on urban renewal. He convinced CN Rail to relocate its operations to the city's western outskirts. This enabled the building of the Centennial Auditorium. Cliff Wright said that Sid was responsible for the building from the very first, from the foundation to the last shingle on the roof. It is the cultural, political and musical centre of the city. I have gone to the auditorium many times for political rallies, concerts and cultural presentations. I even fell asleep once during a Nana Mouskouri concert at the auditorium.

The federal government was so captivated by this idea of rail relocation after Sid Buckwold and Saskatoon had done it, and were the first to do it, that the Liberals set up a federal program for the rest of Canada. They started giving grants to cities for exactly that purpose. Saskatoon, being the first to be successful with their relocation, missed out on the grants.

Through Sid's years of management of municipal finances, over two terms as mayor, the civil service of Saskatoon today is a place where workers are proud to work. That is part of Sid's legacy. Saskatoon's municipal workers provide professional, excellent service to the citizens.



To Senator Sid's family, his wife, Clarice, his children, Jay, Judith and Linda, grandchildren and extended family members, on behalf of all of us and the people of Saskatchewan, God bless you. Thank you for sharing Senator Sid with Canadians. He has left an indelible impression on this place and an impressive legacy for public figures from Saskatchewan.

**Hon. Joyce Fairbairn:** Honourable senators, these are truly sad days of losing old and valued friends. Sid Buckwold was certainly one of mine. When I came to the Senate in 1984, I was truly privileged to watch one of the best shows in town. I wish Senator Tkachuk had been here as well. Here we really had the four horsemen of Saskatchewan, and only Senator Sparrow remains with us. These were and are unusual men. We know that Senator Sparrow is a man of character, and a character in and of himself. His companions from Saskatchewan were Senator Davie Stuart, Senator Staff Barootes and Senator Buckwold. It truly was worth the price of admission to sit here and watch those fellows when they were going at it; good, close friends, but combatants such as you have never seen. Probably their most vigorous hours came during the GST debate.

Sid Buckwold, along with the other senators from Saskatchewan, had a characteristic which is I suppose Canadian, but there certainly seems to be something special in the air of that province that gives a biting sense of humour and the ability with words and wit that many of us wish we had.

When Senator Buckwold left this place, his friends such as Senator Barootes were sad to see him go. Indeed, I can recall Senator Barootes referring to him as probably the best mayor of any place in the country when he was leading the citizens of Saskatoon.

Senator Buckwold loved this place. He took it seriously. He worked prodigiously. When Sid made a decision on the route he would take, nothing would dissuade him. He taught me a lot. He contributed to a degree of public admiration through his activities that many of us would dearly wish to emulate.

Senator Buckwold and his wife, Clarice, were extremely generous. When any of us came to Saskatoon, you did not stay in a hotel, you ended up in their guest room and being looked after like a prince or a princess.

My thoughts go out to the Buckwold family. Sid was an irreplaceable man, a scholar, a businessman, a humanitarian and a very loyal member of the Armed Forces who gave proud service overseas. Those people do not pass this place twice, and I am happy today to remember him with great fondness.

• (1400)

**Hon. A. Raynell Andreychuk:** Honourable senators, I wish to say a few words about the late Senator Sidney Buckwold. My knowledge of Senator Buckwold goes back to when he was Mayor of the City of Saskatoon. When I was growing up in Saskatoon, every young person knew Senator Buckwold. He attended virtually every event in the community. He was a hard-working and very approachable mayor. Mayors are often preoccupied with the issues that preoccupy adults but, as mayor, Senator Buckwold took a great interest in the young people of the community.

After I had moved away from Saskatoon, I was surprised to learn on return visits that he had followed my career and those of many of my friends and counterparts from Saskatoon. He took an interest in our lives, and he felt that the concerns of everyone in the city were his concerns.

He had somewhat of a rude awakening when he ran for federal politics and lost. Many citizens of Saskatoon who had consistently voted for him as mayor told him that they did not vote for him when he ran federally because they wanted him in their community on a day-to-day basis. They wanted him as their mayor.

Many years after leaving the office of mayor, people still referred to him as Mayor Buckwold. At every event in Saskatoon he was either present or mentioned. He is truly an icon in Saskatoon. The contributions he has made to that community are legion.

Sidney Buckwold had a great respect for the Senate and the people who work here. His concerns and interests crossed party lines. He was as concerned about those sitting on the opposite side of the chamber as he was about those on his side.

When I came to this place, he immediately called me to say how delighted he was about my appointment. He said that I had erred in only one issue. That, of course, was in the side that I had chosen.

He remained in constant contact by telephone. He followed our debates and encouraged me to continue in the work that I was doing. Therefore, I have lost a mentor, a friend and a valued colleague.

In the coming years, there will often be mention of Senator Buckwold. He will live on in legend as an icon from Saskatoon and a great Canadian because of the contributions that he has made, which have been listed by speakers before me.

I extend my condolences from the floor of the Senate chamber, as I have personally, to Senator Buckwold's family. I express my gratitude for his work and his example to all of us in Saskatoon, in Saskatchewan and in Canada.

**Hon. Senators:** Hear, hear!

## SENATORS' STATEMENTS

### STEPHANIE McCLELLAN

CONGRATULATIONS ON COMPLETION OF CROSS-CANADA TRIP TO  
RAISE AWARENESS AND FUNDS FOR THE DISABLED

**Hon. Consiglio Di Nino:** Honourable senators, on July 1, 2001, right here on Parliament Hill, Stephanie McClellan, a courageous young paraplegic athlete, started the second leg of a cross-Canada adventure on a specially designed three-wheel bicycle to raise awareness and funds for the cause of disabled people everywhere.



Let me read to you from what she recently wrote to me:

We did it! Vancouver, B.C. to Cape Spear, Nfld., 9018 kms. As I sat on the cliff and gazed out to the horizon where ocean met sky, I thought of all the people who became part of the "On Wings Like Eagles" dream. Like the waves crashing over the rocks below me, my gratitude tumbled upon itself at the shore for the people like you who meant so much to the success of our journey.

Honourable senators, I am sure you will join with me in telling Stephanie: It is we who thank you for your inspiration and courage.

### THE LATE CARRIE BEST, O.C.

#### TRIBUTE

**Hon. Donald H. Oliver:** Honourable senators, I rise today to call to your attention the passing last July of a very great Canadian. Dr. Carrie Best died in New Glasgow, Nova Scotia. She was widely known as a human rights leader, a journalist, an author, a poet and a humanitarian. She was 97 years of age.

She was one of the most outstanding Black activists and crusaders in the last century, never afraid to stand up for the rights of our people. She was always breaking new ground. She is considered the first Black publisher in Nova Scotia and an outspoken advocate of racial equality. She wrote countless articles designed to expose systemic racism. An example of a story she covered in her journal was a dissertation on a Black baby that was denied burial in a white cemetery.

She frequently appeared before the Nova Scotia Human Rights Commission and had a habit of winning most of her cases. She published her autobiography entitled *That Lonesome Road* and also wrote many books of poetry. St. Francis Xavier University and King's College presented her with honorary degrees and she ultimately was named a Member and, later, a Companion of the Order of Canada.

When she received her degree from St. Francis Xavier University in 1975, Reverend Dr. Malcolm MacDonell said the following of Dr. Best:

A woman of outstanding work, a tenacious crusader for good and noble cause, a gracious lady who has devoted her life and her generous gifts to the betterment of the human condition. She has given hope and dignity to her own race and is an example and inspiration to all people in both word and work.

I extend my condolences and sympathy to her family.

## ROUTINE PROCEEDINGS

### STUDY ON PRESENT AND FUTURE STATE OF FORESTRY

#### REPORT OF AGRICULTURE COMMITTEE TABLED

**Hon. Leonard J. Gustafson:** Honourable senators, I have the honour to inform the Senate that the fourth report of the Standing Senate Committee on Agriculture and Forestry, which dealt with the present and future state of forestry during the Second Session of the 36th Parliament, was tabled with the Clerk in the Senate June 29, 2001.

I commend the reading of this excellent report to everyone.

• (1410)

### NATIONAL DEFENCE

#### MISSILE DEFENCE SYSTEM AND NEED FOR INTERNATIONAL SECURITY—NOTICE OF INQUIRY

**Hon. Douglas Roche:** Honourable senators, I give notice that two days hence, I will call the attention of the Senate to the urgent need to consider the implications of a missile defence system for Canada's policies on keeping space free of all weapons and, in this context, to promote a cooperative and forward-minded approach to international security in the light of the terrorist attacks of September 11, 2001.

## QUESTION PERIOD

### NATIONAL DEFENCE

#### UNITED STATES—TERRORIST ATTACKS OF SEPTEMBER 11, 2001—POSSIBLE RETALIATORY MEASURES—CONTRIBUTION BY ARMED FORCES

**Hon. J. Michael Forrestall:** Honourable senators, I should like to ask several questions of the Leader of the Government in the Senate. They are along the lines of the questions I posed yesterday with respect to Canada's contribution to our friends to the south.

The government, as I mentioned yesterday, has indicated that we, as Canadians, are prepared to stand shoulder to shoulder with our American friends in their war on terrorism. That may very well begin tonight. Australia has, as we now know, clearly started their role to stand shoulder to shoulder with the Americans. We have indicated publicly, but I gather not directly, to the United States our preparedness to supply or to make available CF-18s and/or the Royal 22nd Regiment.

I draw to the attention of the leader once again that the CF-18s are not supportable in this capacity. We have no way of getting them there. We have no way of sustaining them while they are operating over there. Indeed, it seems a useful gesture to offer them, but it is very difficult for Canadians to understand just what the CF-18s would do.

Can the minister tell us whether any specific new training has been initiated with respect to the use of CF-18s and the Royal 22nd Regiment in this regard?

Perhaps the minister, while she is dealing with that question, will tell us what she may know or may be able to find out about whether we have dispatched as yet or offered to our friends to the south the services of the Joint Task Force-2.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator has indicated his understanding and belief, which is shared by me, that Canada will indeed stand shoulder to shoulder with our allies, not only the United States but our other NATO allies, under Article 5, as has been well recognized since the terrible tragedy of last week.

As the honourable senator knows, the Prime Minister will be meeting with the President of the United States on Monday. At that time, and only at that time, will discussions take place as to what it is that Canadians can offer on the basis of what the Americans would like us to do.

#### WARNINGS OF TERRORIST ATTACKS

**Hon. J. Michael Forrestall:** Honourable senators, I appreciate that answer, but I caution the minister that in the past, when Canada has been faced with like decisions, the government has been severely criticized for failing to take into its counsel the chambers of Parliament and the public of Canada. I am fully aware of that.

Has the government been given any warning of likely terrorist attacks on or about September 22, this coming Saturday? If so, can the minister tell us the likely nature of these attacks and if Canada is likely to be targeted?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Government of Canada has in the past consulted with parliamentarians, and we consulted with parliamentarians Monday and Tuesday of this week when debate took place in both chambers with respect to the attack on the United States on September 11. There is no lack of will on the part of this government to consult with parliamentarians.

In terms of whether there is any forecasted attack on Canada, I am not at liberty to discuss that in this place.

#### UNITED STATES—TERRORIST ATTACKS OF SEPTEMBER 11, 2001—POSSIBLE RETALIATORY MEASURES—DEBATE ON CONTRIBUTION BY ARMED FORCES

**Hon. J. Michael Forrestall:** Honourable senators, might I be so bold as to suggest to the Leader of the Government in the Senate that, yes, indeed, we may have been given an opportunity to participate in debate, and it was welcome because it did give us an opportunity to express our concern to our allies about terrorism, not just in the United States but worldwide. It gave us

an opportunity to send our sympathies to the victims, in particular to their families.

While all of this is very true, it was hardly a debate when all we had to base our debate upon was CNN news broadcasts.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, frankly, I do not think that was the case. I certainly turned to CNN on a number of occasions during that period of time, but I most frequently watched CBC Newsworld. I did so because I thought that its work, often by accepting feeds from CNN — and I want to be clear about that — was excellent and well balanced. It was, after all, Canadian.

#### UNITED STATES—TERRORIST ATTACKS OF SEPTEMBER 11, 2001—SWEARING OPPOSITION LEADERS TO CABINET

**Hon. Marjory LeBreton:** Honourable senators, I have a supplementary question to my colleague's comments about parliamentarians being afforded the opportunity to participate in this debate and keeping parliamentarians fully informed. Has the government considered doing what was done during the Gulf War when Audrey McLaughlin, then Leader of the NDP, was sworn in to the Privy Council for the purpose of reviewing private briefings with respect to Canada's security and participation in that war? Of course, the same courtesy was extended to the then Leader of the Opposition, Mr. Chrétien, who was already a Privy Councillor. He received briefings on a regular basis from the President of the Privy Council and the Deputy Minister of National Defence in a room adjacent to the cabinet room.

Would the government be prepared to extend that courtesy to the leaders of the parties in the other place and in this place as well?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I want the honourable senator to know that briefings have taken place. All of the leaders of all of the official parties in the House of Commons were briefed. It is my understanding that those briefings will continue where appropriate. Whether it will be necessary at some point to swear in some of those individuals as Privy Councillors I do not think has been determined at this point, but I will certainly take the honourable senator's suggestion forward.

#### UNITED STATES—TERRORIST ATTACKS OF SEPTEMBER 11, 2001—POSSIBILITY OF CREATING INTERNATIONAL TRIBUNAL

**Hon. Douglas Roche:** Honourable senators, my question is directed to the Leader of the Government. Could she inform the Senate of the ideas and proposals that Canada is at this moment putting before the leadership of the United Nations in an effort to find a comprehensive set of measures to respond to the New York and Washington attacks? I have in mind, for example, the creation of an international tribunal to try the culprits once they are apprehended.



**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question. It would appear that the upcoming session of the UN General Assembly will in fact not go forward. It has been decided that the world is in such a state of tension that the dialogue might not be of the value that it should be.

In terms of the honourable senator's specific proposal of the creation of an international tribunal, I will bring it forward to my cabinet colleagues.

## FINANCE

UNITED STATES—TERRORIST ATTACKS OF  
SEPTEMBER 11, 2001—INFLUENCE ON ECONOMIC SITUATION

**Hon. Terry Stratton:** Honourable senators, my question is directed to the Leader of the Government in the Senate. Wednesday's *National Post* includes the following in a report on a speech by CanWest Director David Asper. He gave a speech to the Canadian Chamber of Commerce expressing concern. The article reads:

• (1420)

Mr. Asper said business requires an environment of political, economic and democratic certainty, and a failure on the part of the Canadian government to take a harsh stand heightens a threat of loss of consumer confidence.

Does the government at all share Mr. Asper's concern that this failure to take a harsh stand has increased the chances that consumer confidence will fall further?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it was just a very few months ago that David Asper made comments that did not meet with the approval of the other side of this chamber. At that time, I indicated that my understanding was that David Asper, a very accomplished young lawyer, was quite capable of making his own statements, but I was not associating myself with David Asper's statements. I am not associating myself with David Asper's statements today.

As to whether, in the view of the government, business requires certainty, I think that is a given.

**Senator Stratton:** Honourable senators, with the events of the last 10 days and with the economic situation deteriorating daily, why will the Minister of Finance not bring in a new budget instead of an economic statement? The concern is this: How does doing little on the part of the government in this regard help the confidence of Canadians? The confidence of Canadians is dropping daily with the hits the economy is taking. This uncertainty is driving us down, and nothing is being said by this government to instill confidence in Canadians with respect to the economic future of this country. Something should be said.

**Senator Carstairs:** Honourable senators, the Minister of Finance, in his economic update in May, indicated clearly that there would be a further economic update in the fall, probably early in the month of October, which is just a few weeks from now.

Two days ago, it was announced that there was a surplus of \$17.1 billion, which has led to a substantial payment on our debt that will save us some \$2.5 billion in interest payments each and every year.

Frankly, I do not agree with my friend opposite who says there is a sense of great anxiety among Canadians. I think they have stood shoulder to shoulder with their Prime Minister since last Tuesday —

**Some Hon. Senators:** Hear, hear!

**Senator Carstairs:** — and they are confident that Canada is in very good hands.

**Senator Stratton:** I would ask then, honourable senators, why Mr. Asper received a resounding round of applause when he gave his speech? I would ask why and how the minister can respond in the fashion she did with the economy deteriorating daily? We have a problem here. Canadians do not need to hear about the past. That is history and we were done with that as of last week. We are in an entirely new world situation. The situation is completely different. Since when have we have faced anything like it? Some of us in this chamber remember the crisis of 1962. This is serious stuff, and to flip off and start quoting what happened in the past is not the issue here. The issue is where are we going and what our economic situation likely to be. We need something, minister.

**Senator Carstairs:** Honourable senators, that is exactly what my honourable friend will get in the economic update from the Minister of Finance. Frankly, I have never known a business community anywhere in this country that would not give a resounding round of applause for someone who made the statement, "business certainty."

## FOREIGN AFFAIRS

COMMENTS BY JOURNALIST ON MIDDLE EAST POLICY AT  
CEREMONY INVOLVING GOVERNOR GENERAL

**Hon. Marcel Prud'homme:** Honourable senators, the Honourable Senator Stratton mentioned the name of Mr. Asper. I know that there is a good relationship with that gentleman. However, I am shocked. I would like the minister to convey that message to the cabinet. Her Excellency the Governor General should be saved the embarrassment of having to listen to a man attacking a minister of the Crown, a member of the Privy Council. I, too, am a member of the Privy Council. The vicious attack he made against the Minister of Foreign Affairs in the presence of Her Excellency was totally unacceptable.

This vicious attack on all foreign affairs public servants, attacking them as Arabists and anti-Canadian, in essence for their views on the Middle East question, was totally uncalled for and unacceptable. What I resent most is that this was done before Her Excellency the Governor General, for whom I have the highest esteem as a lady of immense class and talent. She does a fabulous job. It is like taking a prisoner and saying, "Now, you will listen to what I have to say." It was in the worst taste. If this is what we are about to see in the newspapers, 53 per cent of which are now controlled by the same group of people, the public is about to miss much of what is going on in this country. If we were to listen to what was suggested by the *Ottawa Citizen* today and yesterday, we would be at war with everyone because



everyone now is included. Senators may have noticed that they forgot to mention North Korea and Cuba, so apparently now they are part of the people who should be disposed of. Canadians have more sense. If the minister could, with her sense of equilibrium, bring these views to the appropriate people, I think Canada will keep its good reputation.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for his comments. I will bring his message to my cabinet colleagues. Clearly, our Governor General is doing a wonderful job. Her sense of understanding of this country is not only extensive but also extremely valuable to the role she plays. We live in a country where, I think the honourable senator would say, free speech must always be an absolutely protected value. Therefore, one cannot indicate, not even in the presence of the Governor General, that one can or cannot say this or that. I will certainly make the views of my honourable friend known to my colleagues.

## THE SENATE

### POSSIBILITY OF PRE-STUDY OF CHARITIES REGISTRATION (SECURITY INFORMATION) BILL

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, on Tuesday of this week, during the important debate relating to the tragic events of September 11, a number of concrete suggestions were made regarding steps that the Senate of Canada might undertake. One is related to Bill C-11, which I hope will be before the appropriate committee soon. It is the bill which deals with immigration. Our committee will be able to examine not only the general social dimensions of the bill, of which we had already been seized, but also some of the due process issues of the bill. In light of the tragic events that cloud our world of today, no doubt there is an interest in this chamber, which will find expression in that committee, in looking at needed amendments to either the bill or the Immigration Act relating to the more contemporary approach of the determination of landed immigrant status in Canada.

• (1430)

The second concrete suggestion for action by the Senate was that we consider making a pre-study of Bill C-16, which is now in the House of Commons. I understand that bill has been referred to a committee of the other place prior to its adoption at second reading. Can the Leader of the Government in the Senate tell us whether the government would be open to having the Senate examine the subject matter of that bill in relation to income tax treatment of those who raise money that finds its way directly or indirectly to terrorist groups?

In these days, it is my humble submission that we could take that concrete step. I understand this would be a pre-study. The government could choose to bring in a parallel bill or an improved bill, then *mutatis mutandis* a study of the subject matter would be an important step for the Senate.

**Hon. Sharon Carstairs (Leader of the Government):** I do not believe that a pre-study of the present Bill C-16 would be particularly effective in that the bill has a very limited nature. The only act opened in Bill C-16 is the Income Tax Act. Some serious concerns are now being raised as to whether we should also be opening the Criminal Code to examine potential amendments there. That cannot be done with the present Bill C-16.

The Minister of Justice has indicated that she is examining that issue. It might be more useful for our new committee on national security to conduct a broader study rather than limiting a study to the topic of Bill C-16 in its present form.

**Senator Kinsella:** Honourable senators, I thank the minister for her reply. I take it, then, that the government is open to having the Senate study the subject matter of money being raised by organizations in Canada and finding its way directly or indirectly to terrorist organizations. In the examination of that subject matter, amendments to the Criminal Code or to other pieces of legislation may be needed in addition to the Income Tax Act. The government seems to share my view, and perhaps next week we can come back to this issue by way of a motion of referral to our new Standing Senate Committee on National Defence and Security, as I believe it is called, chaired by our distinguished colleague Senator Kenny. Have I understood the pith and thrust of the position?

**Senator Carstairs:** Honourable senators, I have indicated that the reference of that committee is sufficiently broad that it could undertake such a study.

## TRANSPORT

### AIRLINE INDUSTRY—EFFECT OF TERRORIST ATTACKS ON UNITED STATES—GOVERNMENT SUPPORT

**Hon. Lowell Murray:** Honourable senators, what is the position of the government with regard to the \$3 billion being sought by Air Canada to tide it over?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as I indicated yesterday, the government has made no decision with respect to the request primarily because the airline industry is not the only industry that will be impacted by the events of last week. Canada 3000 has now made a similar request for help. We first must have a broader picture about the economic situation, not only with respect to air transport but also the trucking industry and other industries that may be affected.

**Senator Murray:** Honourable senators, with regard to the request from Air Canada or, if my friend wants to put it in a somewhat broader context, the requests from the air travel industry, can we be informed as to the options being considered by the government? Obviously, advisers to the government will have developed various options to put before ministers. It would greatly assist in our consideration if we could have some idea what those options are.

**Senator Carstairs:** Honourable senators, at this point I have to tell the Honourable Senator Murray that I do not think options have been developed. Those options will be ongoing as the economic situation unfolds.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table three different answers to questions raised in the Senate on June 5 and June 6, 2001, regarding the project for the procurement of Maritime Helicopters, by Senator Forrestall, and to the question raised in the Senate on June 5, 2001, regarding the helicopter procurement project by Senator Stratton.

## NATIONAL DEFENCE

### REPLACEMENT OF SEA KING HELICOPTERS—RISK ANALYSIS PRIOR TO SPLITTING PROCUREMENT PROCESS

*(Response to question raised June 5, 2001 by Hon. J. Michael Forrestall)*

#### QUESTION:

When was Senator Carstairs informed that a risk analysis had been carried out by the government regarding a split procurement process and the related costs?

#### ANSWER:

The Leader of the Senate receives briefings on key government issues on an ongoing basis and information on the Maritime Helicopter Project would be included in such briefings.

### REPLACEMENT OF SEA KING HELICOPTERS—COST OF EQUIPPING EUROCOPTER COUGAR FOR NAVAL USE

*(Response to question raised by Hon. J. Michael Forrestall on June 6, 2001)*

All potential airframe manufacturers will need to modify their helicopters for naval use in order to meet the requirement specifications for the Maritime Helicopter. The necessary modifications and related costs will be evaluated by all companies and will be reflected in the bid price submitted in response to the Request for Proposals.

### REPLACEMENT OF SEA KING HELICOPTERS—SEA STATE OPERATION AND DITCHING REQUIREMENTS

*(Response to question raised by Hon. Terry Stratton on June 5, 2001)*

Operating limits and safe ditching limits are two separate issues and therefore have two different sea-state requirements.

Operating limits refer to the ability to operate from a ship. Ditching limits refer to the ability of a helicopter to float in an upright position, following an emergency water landing, to allow for normal exit of crew and passengers.

It is generally accepted that conditions between sea-states three and six are too severe to guarantee normal exit conditions for the crew following an emergency landing. Accordingly, crews are trained in emergency exit to enable them to safely exit the helicopter if it is unable to maintain an upright position.

## QUESTIONS ON THE ORDER PAPER

### REQUEST FOR ANSWERS

**Hon. Jean-Robert Gauthier:** Honourable senators, since May 29, 2001, I have raised four highly important questions. I have yet to receive answers. I have noticed that answers are being given to questions raised in June, before answering those raised in May. Am I to expect an answer soon? These answers are important for our files.

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I asked my staff how many questions were outstanding. I was told one. I do not know whether it is Senator Gauthier's question, but I will get back to staff and try to facilitate that for him.

**Senator Gauthier:** To be more specific, the question is No. 16 and it has four parts to it. I would appreciate very much having an answer in the near future.

**Senator Carstairs:** I thank the Honourable Senator Gauthier for his clarification in terms of it being a written question rather than a question asked in the chamber. I will follow up, as I indicated I would do.

## ORDERS OF THE DAY

### YOUTH CRIMINAL JUSTICE BILL

#### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the second reading of Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

**Hon. Gérald-A. Beaudoin:** Honourable senators, it is not easy to legislate in the domain of criminal justice for young persons. The Attorney General of Quebec has already challenged, before the Appeal Court of Quebec, the constitutionality of Bill C-7. A long list of experts have already made known their desire to appear before us.



[Translation]

Bill C-7 repeals the existing Young Offenders Act and replaces it with a new system of justice for young people based first on making them accountable and protecting society and then on their potential for rehabilitation.

• (1440)

[English]

Bill C-7 is composed of nine parts: extra judicial measures; the organization of the youth criminal justice system; judicial measures; sentencing; custody and supervision; publication, records and information; general provisions; transitional provisions; and the consequential amendments, repeal and coming into force.

It is a considerable statute, to say the least, honourable senators.

[Translation]

The declaration of principle set out in clause 3 of Bill C-7 confirms that Canadian policy on young offenders is based on crime prevention. The youth criminal justice system must respect the principle of fair and proportional accountability but remain separate from the adult system.

Jurisprudence has recognized the role of Parliament in the prevention and reduction of crimes involving young offenders, while giving subsection 92(13) and section 93 of the Constitution Act, 1867, very broad scope, thus confirming the jurisdiction of the provinces over the protection of youth.

[English]

This division of power in our study of Bill C-7 is fundamental for us. That is a point that Quebec has identified and raised in court, and we are governed by the division of powers.

[Translation]

In *Sheldon*, the Supreme Court ruled on the matter of alternative measures. At issue in this matter was the Government of Ontario's failure to implement an alternative measures program for young offenders under section 4 of the Young Offenders Act, based on shared powers and the Canadian Charter of Rights and Freedoms.

Chief Justice Dickson noted, on behalf of the Court, that section 4 did not require the provinces to set up such a program. It was not a mandatory requirement, but a measure left to the discretion of the individual provinces. Furthermore, section 4 was valid, because it is under the jurisdiction of Parliament in matters of criminal law under subsection 91(27) of the Constitution Act, 1867.

In addition, jurisdiction to pursue young offenders had been given to the provinces under section 2 of the Criminal Code. The

discretionary power to implement alternative measures was corollary relief, according to Mr. Justice Dickson.

The statement of principle in section 3 of Bill C-7 seems to reduce the provinces' manoeuvring room in preventing juvenile delinquency.

[English]

We should hear from the experts on that point.

[Translation]

Bill C-7 would bring about an important reorganization of the youth criminal justice system in Canada, basing it primarily on the protection of society and the accountability of young offenders, rather than on the principle of rehabilitation and reintegration, as is now the case. This is a paradigm shift.

The first objective, protection of society, would be satisfied through the imposition of just sanctions which are commensurate with the seriousness of the offence and the degree of responsibility of the young person. In addition, consideration should be given to regional harmonization for specific sentences.

The second objective, reintegration, should be considered so that the sentence given is as light as possible, so that it offers the best chances of rehabilitation and reintegration, and so that it encourages a sense of responsibility in the young person.

There is no doubt that one of the objectives of the Youth Criminal Justice Act must be to protect society. Should that be the primary objective? If so, this relegates the needs of the young person to second position. The absence of any notion of balance between the needs of the young person and the protection of society means that the youth sentencing system will be less and less distinct from the one for adults. However, it is important to remember that the Supreme Court has repeatedly recognized the need for a separate youth justice system.

Pursuant to clause 155 of Bill C-7, the Governor in Council may make regulations "establishing uniform rules of court for youth justice courts across Canada, including rules regulating the practice and procedure to be followed by youth justice courts."

In the referral on the Young Offenders Act (PEI), the Supreme Court found that jurisdiction over the Young Offenders Act may be conferred upon provincial youth courts.

According to Chief Justice Lamer, the Young Offenders Act creates a specific legislative regime for youth which postdates the federation. That said, this jurisdiction may be conferred upon lower courts. This was sufficient for purposes of the referral, but Chief Justice Lamer adds that, had this jurisdiction predated Confederation, it would still have been conferred upon the lower courts because it does not constitute "a fundamental element of the jurisdiction protected by section 96 of the Constitution Act, 1867."



[English]

As the administration of justice, in particular, when it concerns the provincial courts, comes under the jurisdiction of the provinces pursuant to section 92.14 of the Constitution, it is surprising to see, in Bill C-7, that the Parliament of Canada will have the power to establish uniform rules for all provincial tribunals for young people. Probably, the Parliament of Canada will invoke its ancillary power to legitimize this intrusion into the provincial field. Parliament will no doubt have recourse to the argument of necessity. Again, this is a point that will be discussed in the Quebec Court of Appeal.

Some people have raised the point that Bill C-7 does not comply with our international obligations in the field of constitutional and international law. I must say that Canada has inherited, from the United Kingdom, the system of duality.

• (1450)

A treaty does not change the law of Canada until implementing legislation has been adopted by the proper authorities, that is, the Parliament or the provincial legislature, as the case may be. If no implementing legislation is adopted, the status quo continues to apply. This will also need to be studied in our Legal Committee. We also have an obligation to give effect to the treaties signed by Canada.

[Translation]

In conclusion, honourable senators, we find that the criminal justice system for young offenders is certainly in need of change.

Bill C-7 represents an in-depth change in that the primary aim of the new regime is to protect society and to make young offenders assume responsibility. In future, the objective of rehabilitation and social reintegration will be secondary. In my opinion, a thorough examination is required in connection with Bill C-7, because we have a duty to comply with the rules of our founding legislation and the Canadian Charter of Rights and Freedoms.

On motion of Senator Stratton on behalf of Senator Nolin, debate adjourned.

#### ADJOURNMENT

Leave having been given to revert to Government Notice of Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, September 25, 2001 at 2 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned to Tuesday, September 25, 2001 at 2 p.m.



**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(1st Session, 37th Parliament)**  
**Thursday, September 20, 2001**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07		
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19							



**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30							
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14							
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications					
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14							

C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	-	-	-	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	-	-	-	01/06/14	01/06/14	24/01

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5			
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Privileges, Standing Rules and Orders					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Privileges, Standing Rules and Orders					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	

S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn 01/05/10)	
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Energy, the Environment and Natural Resources	Transport and Communications
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12			
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26	Social Affairs, Science and Technology
S-22	An Act to provide for the recognition of the <i>Canadien Horse</i> as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications	
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11			
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12			
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19			

## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Krott)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	



## CONTENTS

Thursday, September 20, 2001

	PAGE		PAGE
<b>The Late Honourable Joseph-Philippe Guay, P.C.</b>		Senator Carstairs .....	1261
Tributes, Senator Carstairs .....	1255	<b>Finance</b>	
Senator Stratton .....	1255	United States—Terrorist Attacks of September 11, 2001—	
Senator Fairbairn .....	1256	Influence on Economic Situation, Senator Stratton .....	1261
<b>The Late Honourable Sidney L. Buckwold, O.C.</b>		Senator Carstairs .....	1261
Tributes, Senator Carstairs .....	1256	<b>Foreign Affairs</b>	
Senator Tkachuk .....	1257	Comments by Journalist on Middle East Policy at Ceremony	
Senator Fairbairn .....	1258	Involving Governor General, Senator Prud'homme .....	1261
Senator Andreychuk .....	1258	Senator Carstairs .....	1262
<hr/>		<b>The Senate</b>	
<b>SENATORS' STATEMENTS</b>		Possibility of Pre-study of Charities Registration	
<b>Stephanie McClellan</b>		(Security Information) Bill, Senator Kinsella .....	1262
Congratulations on Completion of Cross-Canada Trip to Raise		Senator Carstairs .....	1262
Awareness and Funds for the Disabled, Senator Di Nino .....	1258	<b>Transport</b>	
<b>The Late Carrie Best, O.C.</b>		Airline Industry—Effect of Terrorist Attacks on	
Tribute, Senator Oliver .....	1259	United States—Government Support, Senator Murray .....	1262
<hr/>		Senator Carstairs .....	1262
<b>ROUTINE PROCEEDINGS</b>		<b>Delayed Answers to Oral Questions</b>	
<b>Study on Present and Future State of Forestry</b>		Senator Robichaud .....	1263
Report of Agriculture Committee Tabled, Senator Gustafson ...	1259	<b>National Defence</b>	
<b>National Defence</b>		Replacement of Sea King Helicopters—Risk Analysis Prior	
Missile Defence System and Need for International Security—		to Splitting Procurement Process.	
Notice of Inquiry, Senator Roche .....	1259	Question by Senator Forrestall.	
<hr/>		Senator Robichaud (Delayed Answer) .....	1263
<b>QUESTION PERIOD</b>		Replacement of Sea King Helicopters—Cost of Equipping	
<b>National Defence</b>		Eurocopter Cougar for Naval Use.	
United States—Terrorist Attacks of September 11, 2001—		Question by Senator Forrestall.	
Possible Retaliatory Measures—Contribution by Armed Forces.		Senator Robichaud (Delayed Answer) .....	1263
Senator Forrestall .....	1259	Replacement of Sea King Helicopters—Sea State Operation	
Senator Carstairs .....	1260	and Ditching Requirements.	
Warnings of Terrorist Attacks, Senator Forrestall .....	1260	Question by Senator Stratton	
Senator Carstairs .....	1260	Senator Robichaud (Delayed Answer) .....	1263
United States—Terrorist Attacks of September 11, 2001—		<b>Questions on the Order Paper</b>	
Possible Retaliatory Measures—Debate on Contribution by		Request for Answers, Senator Gauthier .....	1263
Armed Forces, Senator Forrestall .....	1260	Senator Carstairs .....	1263
United States—Terrorist Attacks of September 11, 2001—		<hr/>	
Swearing Opposition Leaders to Cabinet.		<b>ORDERS OF THE DAY</b>	
Senator LeBreton .....	1260	<b>Youth Criminal Justice Bill (Bill C-7)</b>	
Senator Carstairs .....	1260	Second Reading—Debate Continued, Senator Beaudoin .....	1263
United States—Terrorist Attacks of September 11, 2001—		<b>Adjournment</b>	
Possibility of Creating International Tribunal.		Senator Robichaud .....	1265
Senator Roche .....	1260	<b>Progress of Legislation</b> .....	1



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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT

• VOLUME 139

• NUMBER 52

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OFFICIAL REPORT  
(HANSARD)

Tuesday, September 25, 2001

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THE HONOURABLE DAN HAYS  
SPEAKER





## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Tuesday, September 25, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### RACISM AGAINST MUSLIMS AS A RESULT OF TERRORIST ATTACKS ON UNITED STATES

**Hon. Laurier L. LaPierre:** Honourable senators, last Friday, the Prime Minister of Canada, accompanied by members of Parliament, went to a mosque to demonstrate clearly the revulsion of all Canadians and Canadiens to the racist attacks against our people of Muslim faith and of Arab descent. These racist assaults made him, as he said, "feel shame as a Prime Minister."

[Translation]

We share the Prime Minister's feelings. As a Canadian society, we are calling for the provincial authorities to tolerate no racist act within their borders, and for the police forces under their control to act accordingly.

[English]

Too many terrorist acts of racism are being committed in Canada at this time. The responsibility to punish the perpetrators of such action is that of the provinces. They must act.

[Translation]

What is more, the actions taken by the Prime Minister fit in very well with the policy of freedom that characterizes Canada.

[English]

If I may be permitted, I remind honourable senators that on June 29, 1887, Wilfrid Laurier wrote to Ernest Pacaud, his friend and editor of the liberal newspaper *L'Électeur*. The letter stated:

My dear Ernest, the repeated attacks of Quebec citizens upon the Salvation Army must cease. They are unworthy of the liberal society which I pride myself in representing. The Army must be able to hold its parades without interference — in full liberty and in peace. If necessary, I am prepared to march at their head to protect them.

It is interesting to note, honourable senators, that Wilfrid Laurier's first official act as Leader of the Liberal Party, to which he was elected six days earlier, was to defend the rights and liberties of a small group of people in the capital city of the province of Quebec. It spoke well for the future of Canada. We must guard it so.

Long live Canada!

### PRINCE EDWARD ISLAND

#### ENERGY CORPORATION WIND FARM

**Hon. Catherine S. Callbeck:** Honourable senators, as many of you know, the continuing evolution of what has come to be known as "green power" is gaining importance both here in Canada and in nations around the world.

Of course, oil and gas continue to lead the way in terms of our energy usage here at home, while coal-fired energy makes up 18 per cent of our nation's power. However, as we know, the use of fossil fuels does not come without some environmental impact. We have 14 CANDU reactors presently operating in Canada. These have been successful in contributing about 13 per cent of our nation's energy needs, but again there continue to be concerns associated with nuclear power. That is why there is growing interest in alternatives to our traditional energy sources. I am pleased to report that one such option is currently being explored with some success in my home province.

On the northwestern tip of Prince Edward Island, in a community called North Cape, there is rarely a day without wind, as anyone who has visited there can attest. That natural resource is in the process of being harnessed at the Prince Edward Island Energy Corporation's wind farm. When this facility is fully operational, enough power will be produced there to supply about 4 per cent of the province's yearly energy needs.

It is anticipated that the facility will be generating power for sale by July 2002. When all eight windmill turbines are up and running, officials expect them to produce about 19 million kilowatt hours of power. When that energy becomes available, Prince Edward Islanders will have the option of purchasing it instead of what is currently generated from fossil fuels or nuclear reactors.

I wish to commend both the federal and provincial governments for their joint participation in this project. It is my hope that this development is just a beginning and will serve as a positive indicator to promote further "green energy" development both in Prince Edward Island and throughout Canada.

#### EDITORIAL COMMENT BY FORMER JOURNALIST GORDON SINCLAIR IN SUPPORT OF UNITED STATES

**Hon. Gerry St. Germain:** Honourable senators, widespread but only partial news coverage was given recently to a remarkable editorial broadcast from Toronto by Gordon Sinclair, a Canadian TV commentator. Since the September 11 terrorist attacks on our neighbour and ally, dozens of British Columbians have asked me to read into Canada's parliamentary record the comments expressed by Gordon Sinclair.



Given the time constraints of Senators' Statements, I will read only select passages of his statement. I believe the following is appropriate in light of what has happened. Not only do I remember the content of this statement, I happen to be old enough and privileged enough to have heard the live broadcast.

The subject of his comment was "Good Neighbours."

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth.

• (1410)

Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When France was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris. When earthquakes hit distant cities, it is the United States that hurries in to help. This spring, 59 American communities were flattened by tornados. Nobody helped.

I can name you 5,000 times when the Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble? I don't think there was outside help even during the San Francisco earthquake.

Our neighbours have faced it alone, and I'm one Canadian who is damned tired of hearing them get kicked around.

They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles. I hope Canada is not one of those.

Stand proud, America!

Honourable senators, as a senator and a Canadian, I stand shoulder to shoulder with the Americans, unconditional in my support. Regardless of the risk or the danger involved, I will put my life on the line for my neighbours and friends, the Americans. Long live America!

[Translation]

## UNVEILING OF FRANCO-ONTARIAN FLAG

**Hon. Marie-P. Poulin:** Honourable senators, in early summer, a major event warmed the hearts of all francophones in Ontario, who witnessed the unveiling of the Franco-Ontarian flag at Queen's Park only a few days after it had been recognized as their official emblem.

This historic ceremony took place during the afternoon of May 24, a very symbolic occurrence, as this was Saint-Jean-Baptiste day, the official celebration of our French-Canadian heritage.

This event came about as a result of the ceaseless efforts of Jean-Marc Lalonde, the MPP for Glengarry—Prescott-Russell, whose unflinching determination led to rapid and unanimous passage by the Ontario legislature of a bill to recognize the white and the green.

This flag became the seventh official symbol of the province of Ontario, with the Ontario flag, the white trillium, the white pine, the common loon, and the coat of arms.

Honourable senators, this flag was first unveiled on September 25, 1975, at my alma mater, Laurentian University, in Sudbury. Twenty-six years have since gone by, and today we are delighted to see this dream come true: our colours flying over the provincial capital.

Customs, rites and traditions are a unifying factor. Moreover, a flag has special connotations that elicit deep emotions commanding allegiance to a tradition.

All Franco-Ontarians can now view their own flag with pride and dignity. They will be eternally grateful to Mr. Lalonde.

[English]

## NATIONAL DEFENCE

### PRESENT LOCATION OF HMCS CHARLOTTETOWN

**Hon. J. Michael Forrestall:** Honourable senators, had the Leader of the Government in the Senate been here, I would have engaged her in a bit of a dialogue. Inasmuch as she is unavoidably absent, I will make the following comment.

We were told that the President of the United States did not ask Canada for any military support. That is fine. There are probably other things that we can do as well, perhaps even better. However, it is passing strange that about an hour ago, I called the naval establishment in Halifax to find the whereabouts of HMCS *Charlottetown* and one of our tankers. I did that because I had been told that the *Charlottetown* and a tanker put to sea one day last week. The person in Halifax put me on hold for several minutes. When that person returned, they gave me the terse rejoinder to call Ottawa because they could not talk about the subject.

I would have asked the minister whether there were a couple of ships being put to sea. I would also have asked if these two ships were travelling with the USS *Theodore Roosevelt* carrier battle group, or if they were due to join it or any other multinational force in the coming days or weeks. Finally, I would have asked if the *Charlottetown* and the support ship were deploying to the Mediterranean Sea, the Persian Gulf or the Indian Ocean as part of a war on terror, or relieving American ships on overseas duty so that American ships could go off to war in the Indian Ocean. The matter, as senators will appreciate, is of great consequence to the families of the men and women who serve aboard our Canadian warships on both the East and West Coasts.

Honourable senators will appreciate my concern in bringing this issue to the attention of the government and expressing the hope that someone will read and take notice of the matter. When next the government leader returns, she may be able to supply me with a fuller answer.

[Translation]

• (1420)

## LITERACY AWARENESS PROGRAMS

**Hon. Joyce Fairbairn:** Honourable senators, over the last few years, September has become essentially a literacy month in our country in which reading, writing, communications and understanding is shared from coast to coast.

I had the privilege of spending International Literacy Day, September 8, in St. John's, Newfoundland, with an enthusiastic group of individuals, including Senator Cochrane, beginning what may be one of the most lively awareness programs in our country. This was after the better part of a week spent visiting the villages along the coast of Labrador. What an inspiration it was to see what those smaller communities are doing in the field of literacy for adults and children.

On Sunday, I was in Calgary at a festival called "Word on the Street," which also attracted tens of thousands of Canadians in Halifax, Vancouver and Toronto, where it began 12 years ago. The collection of literacy groups, authors and poets conducting readings, entertainers and publishers that this festival brings together is a tribute to the literacy efforts being made in our country.

In this chamber, honourable senators, are many advocates for literacy, and I thank them from the bottom of my heart. What we are talking about is neither special treatment nor privilege; the issue is that access to learning must be a right of citizenship in this country. All individuals should be given a fair chance to contribute and participate, to have a good job and to earn a decent living for themselves and their families.

Literacy is a huge issue, honourable senators. More than 40 per cent of adult Canadians have difficulty every day with routine reading, writing and numeracy tasks that we in this chamber take for granted.

Literacy is the foundation of our ability as a nation to take advantage of the opportunities and benefits that this new world order is giving to us. I encourage all senators, in their communities, to give a hand to those groups working so hard to help Canadians to learn.

## ROUTINE PROCEEDINGS

### OFFICIAL LANGUAGES

#### ANNUAL REPORT OF COMMISSIONER TABLED

**The Hon. the Speaker:** Honourable senators, pursuant to section 66 of the Official Languages Act, I have the honour to table the 2000-2001 Annual report of the Office of the Commissioner of Official Languages, entitled "Our Official Languages: As a Century Ends, a Millennium Begins."

### TRANSPORT AND COMMUNICATIONS

#### REQUEST FOR AUTHORITY TO STUDY ISSUES FACING INTERCITY BUSING INDUSTRY— REPORT OF COMMITTEE PRESENTED

**Hon. Senator Lise Bacon,** chair of the Senate Standing Committee on Transport and Communications presents the following report:

Tuesday, September 25, 2001

The Standing Senate Committee on Transport and Communications has the honour to present its

#### FIFTH REPORT

Your Committee, in accordance with its Order of Reference of Thursday, May 3, 2001, has heard the Minister of Transport in order to receive a briefing on bussing regulations and now reports thereon.

Your Committee recommends as follows:

That the Standing Senate Committee on Transport and Communications be authorized to examine and report on issues facing the intercity bussing industry;

That the Committee submit its final report no later than December 20, 2002; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

Respectfully submitted,

LISE BACON  
Chair

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Bacon, report placed on the Orders of the Day for consideration at the next sitting of the Senate.



[English]

## STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE

BUDGET—REPORT OF FOREIGN AFFAIRS  
COMMITTEE PRESENTED

**Hon. Peter A. Stollery**, Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

Tuesday, September 25, 2001

The Standing Senate Committee on Foreign Affairs has the honour to present its

### SIXTH REPORT

Your Committee was authorized by the Senate on March 1st, 2001 to examine and report on emerging political, social, economic and security developments in Russia and Ukraine; Canada's policy and interests in the region; and other related matters.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget application submitted was printed in the *Journals of the Senate* of April 25, 2001. On September 25, 2001, the Senate approved the release of \$30,000 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

PETER A. STOLLERY  
Chairman

(For text of appendix, see today's Journals of the Senate, Appendix "A", p. 783.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stollery, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## DEFENCE AND SECURITY

BUDGET—REPORT OF COMMITTEE PRESENTED

**Hon. Colin Kenny**, Chair of the Standing Senate Committee on Defence and Security, presented the following report:

Tuesday, September 25, 2001

The Standing Senate Committee on Defence and Security has the honour to present its

### SECOND REPORT

Your Committee was authorized by the Senate on May 31, 2001, to conduct an introductory survey of the

major security and defence issues facing Canada with a view to preparing a detailed work plan for future comprehensive studies.

Pursuant to section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget application submitted was printed in the *Journals of the Senate* of June 7, 2001. On June 11, 2001, the Senate approved the release of \$100,500 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Respectfully submitted,

COLIN KENNY  
Chair

(For text of appendix, see today's Journals of the Senate, Appendix "B", p. 784.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kenny, report placed on Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

## ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Wednesday, September 26, 2001 at 1:30 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

## CARRIAGE BY AIR ACT

BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill S-33, to amend the Carriage by Air Act.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.



## QUESTION PERIOD

### THE SENATE

#### ABSENCE OF LEADER OF THE GOVERNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, the Leader of the Government in the Senate is absent today. She must work on the palliative care issue. As a government minister, she is the only one who can answer your questions. In her absence I can only offer to take note of your questions and bring them to her attention when she is back in the Chamber.

[English]

**Hon. Gerry St. Germain:** Honourable senators, could the Deputy Leader of the Government in the Senate indicate when the minister will return to the Senate?

• (1430)

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, the government leader will be here tomorrow for Question Period.

**Senator St. Germain:** Honourable senators, I will ask my question tomorrow.

### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in the house delayed answers to two questions: the question raised in the Senate on June 12, 2001, by Senator Forrestall regarding Maritime Helicopter Procurement; and a question raised in the Senate on June 13, 2001, by Senator Comeau regarding the meeting of state ministers in Stockholm, Sweden, on the structured management of fish stocks.

### NATIONAL DEFENCE

#### REPLACEMENT OF SEA KING HELICOPTERS—SEA STATE OPERATION AND DITCHING REQUIREMENTS

*(Response to question raised by Hon. J. Michael Forrestall on June 12, 2001)*

Sea-state three refers to waves of approximately 1.25 metres in height and sea-state six refers to wave action of approximately 6 metres in height.

The Maritime Helicopter Statement of Requirements (SOR) states that the Maritime Helicopter must be capable of operating from a ship at up to sea-state six. Operations at up to sea-state six conditions are possible because of established Canadian Forces flight techniques and the use of a haul-down and traverse system which pulls the helicopter

down onto the flight deck and holds the aircraft in place in high seas.

The ditching requirement makes it mandatory that following an emergency water ditching and shutdown the Maritime Helicopter float upright at the surface for a minimum of two minutes in conditions up to sea-state three to allow for normal exit of the crew and passengers. The SOR also directs that the helicopter make provision for emergency exit lighting, and stowage of a rapidly deployable life raft of at least six person capacity and single place life rafts for each crew member. It is accepted that conditions between sea-states three and six are too severe to guarantee normal exit conditions for the crew. Accordingly, crews are trained in emergency exit to enable them to safely exit the helicopter if it is unable to maintain an upright position.

### FISHERIES AND OCEANS

#### MEETING OF STATE MINISTERS IN STOCKHOLM. SWEDEN—COMMENTS BY MINISTER ON STRUCTURED MANAGEMENT OF FISH STOCKS IN INTERNATIONAL WATERS

*(Response to question raised by Hon. Gerald J. Comeau on June 13, 2001)*

The objective of the meeting in Stockholm, Sweden was to share experiences and exchange information on approaches envisaged for current fisheries management problems within waters under national jurisdiction. The Minister of Fisheries and Oceans used this opportunity to inform other countries of the evolution of the Canadian approach towards Objectives-based Fisheries Management.

The management of fisheries in Canada is continuing to evolve. The Department of Fisheries and Oceans is striving to set out a more structured approach to the management of fisheries through the introduction of measurable objectives and performance measurement. This new concept, referred as Objectives-based Fisheries Management, will introduce a uniform and practical risk analysis process, operationalize the precautionary approach and refine our work with respect to ecosystem based fisheries management.

The Department is working with the industry to develop the objectives based management concept and will use a number of pilot fisheries across Canada to test this concept. It is not the intent to leave behind traditional fishing communities. A key aspect of objectives based management will be the ability of government, industry and fishing communities to work together to clearly define and understand fish management objectives. The end product envisaged is government and industry working together more closely to ensure that conservation of resources is achieved.

## ORDERS OF THE DAY

## YOUTH CRIMINAL JUSTICE BILL

## SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the second reading of Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts.

**Hon. Pierre Claude Nolin:** Honourable senators, I rise today to share my doubts with respect to Bill C-7, entitled the Youth Criminal Justice Act. This legislation will replace the Young Offenders Act.

Our society cannot remain indifferent to juvenile delinquency and the negative effect it has on our communities and our families. As Canada's future and its future prosperity rest in large measure in the hands of young people, we must ensure, as parliamentarians and parents, that the principles underlying this reform will respect the particular needs and rights of adolescents, so they may become full-fledged citizens.

In recent decades, Canadians' perceptions of young offenders have helped shape the principles that enable us to better understand the bases and directions the legislator intends in applying the decisions on Bill C-7.

The *Petit Robert* defines "principle" as, and I quote:

A cause, origin or element constituting a rule of action based on a value judgment and serving as a model, a rule or a goal.

Honourable senators, since 1908, the year the Juvenile Delinquents Act was passed, making young people accountable for their acts, rehabilitation, re-integration and, especially, the existence of a system of justice separate from that of adults in order to provide for the particular needs of young people have been the main principles behind government and community action in this area. The passage of the Young Offenders Act in 1984 added protection of society to the list.

Honourable senators, over the years, the importance each of these principles has taken on has been influenced by Canadians' perception and understanding of the phenomenon of juvenile crime, publication of scientific studies on the phenomenon by experts and representatives in the field, the effectiveness of the system, Canadian legal and constitutional traditions and international conventions. Consideration of all these factors led the Minister of Justice, following several years of consultation with the provinces and the public, to include a series of principles in the preamble to Bill C-7. Initially, the preamble recognizes that society must, and I quote:

...address the developmental challenges and the needs of young persons and to guide them into adulthood.

The preamble then mentions that communities, families, parents and others concerned must unite their efforts to prevent youth crime and help young offenders.

The third part of the preamble points out that Canadians must have:

...access to information on youth justice, youth crime and the effectiveness of measures taken to address youth crime.

Finally, the preamble provides that the youth criminal justice system should command respect and foster responsibility through measures that provide effective reintegration possibilities, while reserving its most serious intervention for the most serious crimes.

Honourable senators, at first glance the text of the preamble seems to indicate that the government hopes to maintain and even improve the approach developed in the Young Offenders Act to fight youth crime. However, when we apply the principles to the arguments used by the Liberal government to explain the need, if not the urgency to reform the youth criminal justice system, a number of concerns come to mind regarding Bill C-7.

Over the next few minutes, I will ask four questions to the Minister of Justice, in the hope of getting answers during the proceedings of the Standing Senate Committee on Legal and Constitutional Affairs.

My first question is: Do Canadians really have access to objective information to assess the effectiveness of the youth criminal justice system? All too often, Canadian public opinion on youth crime is shaped by highly publicized cases of young people who commit violent crimes. The result of the sensationalism used by the media regarding such cases is that, generally speaking, the public is struck by the seriousness of the offence, but does not take into account the inherent causes of the young offender's actions. Yet, while they may not be very representative, these examples contribute to a growing feeling of insecurity among the public and they strengthen the feeling that the Young Offenders Act is ineffective.

In the end, this leads Canadians to ask for ever more repressive measures to deal effectively with youth crime. In this regard, the document released by the Department of Justice and entitled "A Strategy for the Renewal of Youth Justice," which forms the basis of Bill C-7 states, and I quote:

The lack of complete and accurate information can lead to misunderstandings that undermine confidence in the youth justice regime.

Prior to the unveiling of this strategy in 1998, the federal-provincial-territorial working group on youth justice looked at the issue. In a report released in 1996, the group concluded, and I quote:

If the general public's confidence in the youth justice system is to be restored, it is essential that the information disseminated with respect to youth crime, youth courts, and the corrections systems be objective.

Naturally, protecting society against youth crime must be a constant concern of governments and the public.



However, is the increase in youth crime such a threat to the safety of our communities? I think not. According to figures from the Canadian Centre for Justice Statistics, between 1991 and 1997, the number of charges against young Canadians between the ages of 12 and 17 dropped by 23 per cent. In 1997 alone, the number of criminal code offences committed by youth dropped by 7 per cent. After peaking in 1995, charges against young people for violent crimes dropped by 3.2 per cent in 1996 and 2 per cent in 1997.

These statistics show that youth crime is on the decrease in this country. In addition to the figures, a number of research studies done in Canada and in the United States and elsewhere also show that increasing the period of detention for young offenders is ineffective in fostering their responsibility and ensuring their rehabilitation, and ensuring the long-term protection of society.

• (1440)

This brings me to my second question for the Minister of Justice. Does the problem of youth crime in Canada justify passing new legislation?

According to a CROP poll done for the Minister of Justice in June 2000 in Quebec, 77 per cent of Quebecers felt that the federal government should give greater priority to reducing youth crime.

Over 66 per cent of those polled presumed that youth crime had gone up in the previous five years. Finally, 47 per cent of Quebecers urged the government to replace the Young Offenders Act. When the first version of Bill C-7 was introduced in March 1999, the minister said, and I quote:

I pointed out that Canadians had lost confidence in the Young Offenders Act. Fifteen years of experience have shown us that the youth criminal justice system was not working as well as it should in a number of important areas.

The preamble to the first version of Bill C-7, better known as Bill C-68, was very clear as to the government's intentions. The second whereas said that Canadians would be better protected against youth crime, and I quote:

...by replacement of the *Young Offenders Act* with a new legal framework for the youth criminal justice system.

Honourable senators, the figures from the poll seem to demonstrate that Quebecers were not aware of the rather encouraging statistics on the drop of the youth crime rate in Canada. Is it not the responsibility of the Minister of Justice, as outlined, incidentally, in Bill C-7's preamble, to make available to the Canadian public, objective information that would allow them to judge the effectiveness of youth courts?

If the government had done so, it is quite likely that Quebecers would have given quite different answers. One interesting fact from the poll is that 70 per cent of those interviewed had never heard of Bill C-7. Quebecers therefore did not have the whole picture of the provisions contained in the legislation, nor of the effects that it could have on the youth justice system in Quebec.

Yet, since 1999, the Coalition pour la justice des mineurs has been warning that the reforms proposed by the Minister of Justice threaten Quebec's approach to dealing with juvenile delinquency. This coalition groups together more than 25 organizations and specialists working in the field, not only in Quebec, but also across Canada.

In addition, Quebec's National Assembly passed two resolutions unanimously, asking the federal to withdraw Bill C-7. There is certainly a reason for that.

It must be said that the system developed by Quebec is unique in Canada and cited as an example around the world. As is the case with the Criminal Code, the law and criminal proceedings that apply to young people aged 12 to 17 are under federal jurisdiction. However, administration of the justice system for adolescents is a provincial responsibility. At the moment, the Young Offenders Act provides that criminal penalties may be replaced by extra-judicial or alternative measures. In this case, the law sets guidelines that must be followed. The development and administration of such measures are left to the discretion of the provinces.

As the Young Offenders Act came into effect in 1984, Quebec set up, following the passage of the Youth Protection Act in 1977 and the establishment of the alternative measures program in 1982, a number of services specific to offences by young people. Over the years, this network developed an expertise in the field. As a result, Quebec is the only province that fully applies the alternative measures provided in the act.

However, this desire to do things differently has cost Quebec coffers over \$96 million since 1984, since the majority of federal funds allocated to the provinces to apply the legislation goes to the penal part of it.

This fact has discouraged a number of Canadian provinces, with the exception of British Columbia, from following Quebec's approach. However, the benefits Quebec draws from this model are significantly greater than the additional cost it creates. The system allows the needs of adolescents to be better met while protecting society and providing for prevention and rehabilitation.

In fact, the success achieved through this approach is confirmed by the data gathered by the Canadian Centre for Justice Statistics. In 1995 and 1996, Quebec's young offenders accounted for only 10 per cent of the total number of young offenders in Canada, even though Quebec's population accounts for just 24 per cent of Canada's overall population.



By comparison, Ontario, which accounts for close to 36 per cent of Canada's population, accounted for close to 42 per cent of the total number of young offenders in the country. In 1997, Quebec also had the lowest warning rate in Canada for young people.

This did not prevent the setting up, in 1992, of a working group chaired by Mr. Justice Michel Jasmin, deputy chief justice for the youth court component of the Quebec court, to review the implementation of all the components of the Young Offenders Act in Quebec.

This is the most important and comprehensive study ever conducted by a Canadian province on this issue. In a 1996 report entitled "Au nom et au-delà de la loi," the working group concluded the following:

The exercise that we conducted convinced us that the Young Offenders Act is a good act. In fact, we were struck by the consensus that exists among the various Quebec stakeholders in this regard.

Honourable senators, statistics on youth crime in Canada and the success of the Quebec approach in the implementation of the Young Offenders Act lead me to think that the changes proposed by the Minister of Justice could easily have been made through the existing act.

The 1999-2000 federal budget allocated more than \$206 million to the Minister of Justice over the next five years for the implementation of Bill C-7, particularly for the alternative justice programs the provinces may implement. Although a step in the right direction, this measure could have been announced as part of the current legislation, that is the Young Offenders Act.

Had Canadians been properly informed by the Liberal government of the drop in youth crime and had the provinces had the necessary financial resources to apply the alternative measures set out in the legislation, we would have avoided a reform that lays open to question the principles underlying our system.

**The Hon. the Speaker *pro tempore*:** Senator Nolin, I regret to inform you that your allotted 15 minutes are up.

**Senator Nolin:** I request leave to continue.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I would like to know how much more time Senator Nolin requires to finish his speech.

**Senator Nolin:** I need only a few minutes.

**The Hon. the Speaker *pro tempore*:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Nolin:** This leads me to a third question to the Minister of Justice. Is the declaration of principle contained in the Young Offenders Act contradictory to such an extent that it complicates its application?

The renewal strategy for youth criminal justice identifies three weaknesses as justification for an in-depth reform of the legislation. First, the efforts of the present system to avoid young people having to deal with the justice system are insufficient. Second, violent young offenders do not benefit sufficiently from intensive rehabilitation services. Lastly, the system is too much based on custodial placements for most non-violent young offenders.

According to the government, these problems are caused by the lack of clarity in the declaration of principle set out in section 3 of the Young Offenders Act. The presence of these inconsistent and contradictory principles is apparently what makes it impossible to determine the system's main objective.

• (1450)

According to the bill, young offenders ought not under any circumstances to be considered the same as adults as far as their degree of criminal responsibility is concerned, but nevertheless they must assume responsibility for the offences they commit. Society must be able to protect itself against any illegal behaviour and to take the necessary steps to prevent it. Although young offenders do need supervision, discipline and organization, they also have "special needs" requiring advice and assistance.

At first glance, it may be hard to reconcile the objective of societal protection with the specific needs of youth. As a result of this contradiction, a number of Canadians have trouble understanding that young people need to be handled differently from adults when they commit a similar offence.

Far from being harmful, however, this contradiction is necessary to the proper operation of the youth court system, for two reasons. First, the 1982 Young Offenders Act transformed a regime that used to lift all responsibility from the young offender. It establishes a detailed and explicit code governing criminal procedure as it applies to young people. The accent is not so much on social intervention as on setting out rights and obligations.

As former Supreme Court Chief Justice Antonio Lamer stated in the *Reference on the Young Offenders Act*:

The Act (Young Offenders Act) is not meant to be a replica of the Criminal Code. It sets up a complete and comprehensive scheme specially designed for an age group.

Second, contradictions among certain principles in law merely reflect the complexity of the phenomenon of youth crime. As in adult cases, adolescent crime may be linked to poverty, difficult interpersonal relationships with friends and family, a history of mistreatment or abuse or mental problems.

Certain offences are more serious than others, and society must react promptly to punish young offenders and make them accountable. To this end, Canadians must be aware that the justice system for young people must take a different approach from that in effect in the adult system.

It must be understood that young offenders lack the responsibility of adult offenders, since they are still learning about social standards. The process is influenced by age, level of maturity, level of education and parents, family and friends. A young offender appearing in court will not be as knowledgeable as an adult about his obligations and rights.

In this perspective, youth court must take into consideration, in addition to the seriousness of the offence, all of the circumstances of the matter in which the adolescent is involved and his particular needs. The chances of rehabilitation and reintegration are better, and this, in the long term, will protect society.

Honourable senators, the Supreme Court has already ruled on the contradiction in principle inherent in the Young Offenders Act. In 1993, in *R. v. M.*, Madam Justice l'Heureux-Dubé said, and I quote:

While it may not be inaccurate to suggest that the Declaration of Principle reflects a certain societal ambivalence about young offenders, it is also important to appreciate that it represents an honest attempt to achieve an appropriate balance for dealing with a very complex social problem. The YOA does not have a single, simple underlying philosophy, for there is no single, simple philosophy that can deal with all situations in which young persons violate the criminal law.

The judge goes on to say, and I quote:

Judges and the other professionals who work with young persons who violate the criminal law require a complex and balanced set of principles like those found in the YOA.

I therefore do not believe that the contradiction which now exists between the various principles of the Young Offenders Act complicates its enforcement. On the contrary, the experience of Quebec shows this to be possible.

Honourable senators, this brings me to my fourth and final question for the Minister of Justice. The preamble to Bill C-7 reaffirms the importance of having a youth criminal justice system which is focussed on their particular needs.

Do the provisions in Bill C-7 reflect this principle? The preamble to the first version of this legislation provided that, from that point on, the ultimate goal of the system was the protection of society.

The rehabilitation, reintegration and crime prevention measures in the new act were supposed to make young offenders accountable in order to attain this goal.

There was no longer any reference to the particular needs of youth. This proposal got a reaction from a number of stakeholders in the youth criminal justice system. They feared that youth courts would start opting for a criminal approach.

In light of the concerns raised, the preamble to Bill C-7 was amended to make respect for the particular needs of youth the purpose of the reform, as it concerned both sentencing and extra-judicial measures. All reference to the notion of protecting society was dropped from the preamble.

Honourable senators, I am not convinced that this amendment was enough to ensure that the particular needs of youth are at the heart of Bill C-7. I will tell you why.

As it is worded, this legislation seems to distance itself from the principle of individualizing the measures designed to make young offenders accountable, regardless of the offence involved, in order to get closer to the justice system defined in the Criminal Code. The amendments made to the Young Offenders Act in 1995 already confirmed this pattern. This is a cause for concern, since Bill C-7 uses an approach based on an automatic increase in the sentences imposed, from a simple police warning for a minor offence to the placing in custody in the case of a more serious crime.

In the case of murder, attempted murder or aggravated sexual assault, a 14-year-old may be given an adult sentence! So, the youth criminal justice system will punish a young offender based first and foremost on the seriousness of the offence.

This is not all. Leaving aside the notion of individualizing measures, the principles defined in clause 38 of Bill C-7 on sentencing provide, among other things, that the youth justice court imposes a sentence which must, and I quote:

...be proportionate to the seriousness of the offence and the degree of responsibility of the young person for that offence;

Only after taking this principle into consideration can a judge impose a sentence that is the one most likely to rehabilitate the young person and reintegrate him or her into society, while also promoting a sense of responsibility in the young person.

So, in the case of a minor offence, the specific needs of young offenders seem to take precedence in the youth justice system. In the case of a serious crime, it is the protection of society that prevails. Is this really an improvement over the Young Offenders Act?

In order for such a system to work, the legislator did not hesitate to borrow a large number of procedures from the Criminal Code, including measures such as preliminary hearing and parole. Adjusting these measures to the spirit that governs youth justice courts results in an act so complex that lawyers specializing in this area are saying that they cannot see its objectives or how it will work.



Will Canadians be better served by the provisions of Bill C-7? I doubt it. Does a police officer have the expertise required to take into account the specific needs of a young person when the time comes to choose between issuing that person a warning or formally charging him or her with committing a criminal offence for a crime against property?

When we talk about the need to take quick action to punish a young person and make him or her accountable, this does not mean issuing a warning as quickly as possible.

• (1500)

What is needed is for his parents, his family and specialists to step in immediately afterwards in order to make him realize the seriousness of his crime. He will thus realize more quickly the consequences of his action. He will be better able to accept the punishment meted out, whether it be a simple warning, community work, or detention. In some cases, shoplifting may be the precursor to more serious criminal behaviour if not addressed quickly.

This model of criminal law based solely on the seriousness of an offence cannot in and of itself provide society with effective protection against youth crime. Furthermore, the report by the working group chaired by Mr. Justice Michel Jasmin was very clear on the ineffectiveness of this approach. We read on page 35 of the report:

The ill-considered escalation of measures, based on the adult system, goes against the spirit of the Young Offenders Act, reducing a young person to the sum of his offences, through a sort of simplistic mathematics, with no regard for the underlying causes.

Rather than ensuring the protection of society, Bill C-7 will aggravate the problem of youth crime. The approach it recommends will increase the risk of recidivism, drag out court proceedings in cases of serious crimes, and make the rehabilitation process much more difficult.

In conclusion, honourable senators, an analysis of the preamble and the provisions of this legislation shows one thing. Far from clarifying the broad principles which should underlie the youth criminal justice system, Bill C-7 is vaguer than ever about what the bill's primary purpose should be.

Will the reform proposed by the minister serve the particular needs of young offenders, victims, or families, or protect society? No one has the answer. For political reasons, there is a danger that this vagueness could transform the youth criminal justice system into a bureaucratic monster. Who will pay the price? Young people, stakeholders and the provinces. The latter will have the heavy responsibility of implementing a costly and complex reform.

Will the funding promised by the Minister of Justice be sufficient to convince the provinces to adopt Quebec's approach

to youth crime? As they say, if you try to please everybody, you will please no one. No legislation is perfect, I agree. On an issue as complex as young offenders, the Liberal government should have put the interests of young people and society ahead of policy and polls. Demonstrating leadership does not mean passing popular measures.

**Hon. Lise Bacon:** Honourable senators, Bill C-7 is certainly an ambitious bill. It is also a highly complex bill. It is aimed at a substantial reform to the present young offenders system. I will, if I may, make a few observations and comments on this legislation, which was initiated by the Minister of Justice.

There are some laudable objectives in this bill. In particular, that it seeks to lower the rate of incarceration of young offenders and to encourage the application of diversion measures for offences that are deemed to be less serious. To be perfectly candid, as a senator from Quebec, I have a duty to express some concerns about certain implications of the implementation of this bill.

Honourable senators, as you are aware, this past May 23 the Quebec National Assembly unanimously passed a motion calling upon the federal government to make provision within the criminal justice system for young persons for a special system for Quebec under the Young Offenders Act, in order to fully reflect its particular intervention model.

[English]

We as Canadians can be proud that we live in a federal system that, by definition, respects the regional and local differences that together make up our country, a system that links the concepts of unity and diversity. When we act in our capacity as legislators, we must always strive to take into account the differences between our country's various regions and the characteristics that make each of those regions unique.

Honourable senators, we must recognize that there can be differences in the way federal legislation is applied. Criminal law in its application constitutes an area in which a balance can be established between national interests and local concerns — thanks to constitutional structures that allow and, indeed, encourage cooperation between the federal government and the provinces.

[Translation]

Honourable senators, the system in place in Quebec to apply the Young Offenders Act has yielded results that are worthy of mention. In fact, young Quebec men and women account for only one-tenth of cases brought before youth courts throughout Canada. How can this be explained? I believe it is essentially because Quebec has succeeded in putting in place a youth-centred system that places the young person's specific needs at the centre of the decision-making process.



Honourable senators, the Quebec youth justice system has proven itself. It is not perfect, certainly, but it is a rehabilitation-based system, one focussed on the offender, not just the offence. In addition to the nature of the offence, I believe other considerations such as the development of young people, their degree of involvement in criminal behaviour, and the level of risk for society, are also factors that are very important in determining punishment.

Bill C-7 introduces into the criminal justice system for young offenders certain elements taken from the adult criminal justice system. I clearly understand that the young person who commits a serious offence must face the consequences of it, and the legal system is obliged to protect society. As the bottom line, however, there are some very specific reasons for separating the youth and adult criminal justice systems. The principles of rehabilitation and responsabilization must not be subordinated to the principle of criminal justice. I hope we will continue to give precedence to rehabilitation for the highest possible number of young offenders. This will be far better for our society.

Honourable senators, I doubt overuse of the courts in the system will make young offenders more responsible in society, even when serious crime is involved. I consider the principle of individualization very important, especially when young people are involved. We must avoid over standardization and, instead, keep the individual situation of each person clearly in mind. The problem of juvenile delinquency does not involve just the law courts and the young offenders. It is a problem that affects us all. It is a common problem. Facile solutions must be rejected, and those needing our support not marginalized.

[English]

I earnestly hope that application of the extrajudicial measures provided for in Bill C-7 will bring down incarceration rates and enable more young people to find their way out of trouble.

I also hope that the provinces will have the flexibility they need to tailor the application of such measures to the special features of their own systems.

Above all, I hope they will be given the means and the resources to achieve the objectives inherent in these ambitious proposals.

• (1510)

[Translation]

I also hope that the new system of criminal justice for young people, which will come out of C-7, will enable those involved in the field to look after prevention and the welfare of young people involved in criminal behaviour. We must not forget, the community and social workers will play an essential role in implementing this legislation. All too often in the past, we failed to take this sufficiently into account.

Honourable senators, I also wonder about the negative effects of the skewing caused by certain principles underlying this bill. I refer, among other things, to clause 61, which permits a province to fix by order the minimum age for the application of provisions relating to presumptive offences for adults between 14 and 16.

This means specifically that, for the same crime, in identical circumstances, a youth aged 14 in Nova Scotia could be judged differently from another youth aged 14 in British Columbia. This provision strikes me as rather undesirable.

Honourable senators, this then is the essence of my remarks on Bill C-7. I felt it my duty to express to you some of my concerns.

**Hon. Serge Joyal:** Honourable senators, there are four points I wanted to share with you in regard to Bill C-7. Some of the points were already raised earlier by Senator Nolin and Senator Bacon.

The first one of these points is the constitutionality of this legislation. The Honourable Senator Nolin clearly explained how, under some provisions of Bill C-7, young offenders are treated like adult criminals and subjected to the provisions of the Criminal Code.

The study of this bill is a complex exercise. I hope my colleagues will not have to spend as many hours as I did trying to understand the content of this legislation. When it comes to reviewing legislative documents, I feel that my intelligence and experience are about average, but I challenge anyone to read this bill and to understand its complexity.

I say this because we have to read the provisions together to understand the weight that we are putting on the shoulders of young offenders. This weight is such that we can only conclude that young offenders are treated like adult criminals, which contradicts the very purpose of the bill, which is to establish a system specifically geared to the needs of young offenders. Let me give you an example that really struck me.

Clause 76 of the bill provides that a young offender may be sentenced to a term of imprisonment in a penitentiary or a correctional facility for adults. Yet all the reports published last year and the year before that I read on this issue, beginning with the reports by the American Association of Juvenile Rehabilitation, conclude that the one thing to avoid is to send a young offender to a jail for adults or a penitentiary.

American states as favourable to capital punishment as the State of Florida passed a law this year prohibiting Florida's penitentiary officials from incarcerating and keeping young people in prisons for adults or in penitentiaries.

This American state which, along with Texas, has one of the highest rates of execution, recognized that a young person under the age of 18 should not be held in a prison for adults or a penitentiary, and it passed a formal law to that effect, article 5 of the correctional services act, which took effect in April 2001, this year.

Clauses 76, 84, and 88 to 93 of Bill C-7 provide for the possibility of incarcerating young offenders in prisons for adults or penitentiaries.

[English]

Honourable senators, I should like to draw your attention to something specific. It is a matter regarding the issue of delinquency that has not been put on the floor of this chamber. Thirty-four per cent of the delinquents in our country are young aboriginal people. Where do they live? Most live in downtown centres close to rehabilitation services. Where do you think they will end up living? They will end up in adult prisons. I am not the first one to say that. There have been reliable and eloquent reports that state that justice for Aboriginal people is not the same as average justice.

This bill should have addressed specifically the issues of rehabilitation. The 34 per cent of delinquents who are aboriginal is not reflected, in my opinion, in this bill.

Honourable senators, this is a serious issue. It is an issue that is fundamental and that we know exists in other areas covered by public services. My colleague Senator Chalifoux knows those issues better than I know them.

[Translation]

The economy of this bill, when one reads its clauses in conjunction with each other, puts the young offender on an equal footing with, and sometimes in even more difficult situations than, adults. I would give the example of the right to counsel.

Under clause 25 of the bill, the right to counsel is not accompanied by a provision for a remedy when this right is violated. Accordingly, under this bill, a young person without counsel cannot obtain the assistance required to represent his rights.

If he is to be treated the same as an adult offender, he should at least have the same services and rights as an adult offender charged under the Criminal Code.

The same goes for the exception regarding the confidentiality of information concerning young offenders, for names will henceforth be published. As honourable senators are only too aware, this is one of the most sensitive issues in connection with the status of young offenders. A young person who sees his name in the newspaper either thinks he is a hero because he is now treated the same as an adult, or is permanently stigmatized and his chances of rehabilitation clearly damaged compared to someone else's.

As you are well aware, this possibility did not exist in the previous young offender legislation. In the new legislation, now it does. Can we knowingly accept such a provision without asking ourselves whether we are not, in fact, undermining the very objective of the bill, which is to ensure the rehabilitation of young offenders?

The same applies to extra-judicial statements made by a youth to persons in positions of authority. We are well aware that, for adult criminals, there must be a warning when an incriminating statement is made.

In the case of this bill, that warning no longer exists. The same goes for a trial in adult court for a youth charged with a certain type of crime. Previously, in spite of the seriousness of the crime, the youth could ask to be tried in youth court.

• (1520)

The young offender's representatives had to prove that the youth should not be tried in adult court, but in a youth court. However, if you read the bill, such an offender is now automatically given adult status. This means that the bill gives the youth adult status without giving him the rights adult offenders enjoy. In my opinion, this must lead us to question whether the bill does not contravene section 7 of the Canadian Charter of Rights and Freedoms.

The second point I want to call to your attention, honourable senators, concerns the obligations Canada has assumed under a number of major international conventions on the rights of the child. I would like to list them as, in my opinion, there are many of them and they have implications on any debate about bills concerning youth.

There is the International Covenant on Civil and Political Rights, under articles 24 and 25, dealing with the right to equality; the International Convention on the Rights of the Child, under article 37, demanding segregation of youth and adults; the Beijing Convention, under articles 13 and 26, also demanding such segregation, and the United Nations rules for the protection of minors deprived of liberty, under article 29.

When the government signs or ratifies an international convention, it does so under the prerogative right of the crown. All international treaties are ratified by the Government of Canada based on the prerogative right of the Crown.

In some instances, the government must obtain provincial assent, where matters under provincial jurisdiction are involved, as we understand jurisdiction for juvenile courts and youth crime to be.

This bill raises important questions about the satisfaction of obligations Canada itself assumed by signing these international instruments, the very international instruments ratified by the majority of the provinces and singularly by Quebec.

Accordingly, in an area of jurisdiction clearly defined as falling under provincial responsibility within section 93, the question of the Canadian government's satisfaction of these international commitments arises. It is a serious question, because the Government of Quebec, by Order in Council, made reference to the Quebec Court of Appeal on September 7, that is, barely two weeks ago, putting this question clearly to the Quebec Court of Appeal.



We are the upper house, we can debate this bill, amend it, pass it or reject it according to what we consider in our hearts and minds to be the best route to follow. Nevertheless, the constitutionality of this bill is at this point seriously questioned, the province with the most effective juvenile court system, as Senators Bacon and Nolin explained earlier, is raising this basic question.

It is my opinion, honourable senators, that this is one of the questions we will have to answer in committee deliberations when our committee, chaired by Senator Milne, hears witnesses and initiates the debate we will have to hold on this matter.

[English]

I would like to use English words — the disruption effects — to describe that bill's effects on a system that functions well in Quebec.

Honourable senators, you are familiar with my position on Quebec and "distinct society." We had that discussion here some months ago, and honourable senators know how I voted. However, in a field that is clearly under the jurisdiction of a province and in a field where all the studies unanimously conclude that this province has the best system, we have to question ourselves as to when we should intervene to change the rules of the game — in order to know how the proposed legislation will be implemented and how disruptive it will be on the performance of the Quebec system.

Honourable senators, it would be wise to consider a sunset clause. That would give us an opportunity to allow officials from the Department of Justice, in conjunction with their provincial counterparts, to monitor the implementation of the proposed legislation. The officials could then respond, within a reasonable period of time, to tell us whether we have met the objectives that we have pursued with Bill C-7, objectives that are clearly stated in the preamble, as the Honourable Senator Nolin debated today.

This is an important point. We are confronted with a major challenge: to strike a balance between the rights of the youth and the status of adult criminals with the way in which the provinces perform that responsibility, in respect of the general objective of maintaining a safe and sound society in Canada. That is the challenge that we must examine in Bill C-7.

Honourable senators, I am sure you have listened to our colleagues who spoke to this bill earlier and today. This is a major challenge and we must all pay close attention to a bill that is complex and difficult to read in respect of one section to another, to ensure that what the bill proposes as its objective will be satisfied by the resulting piece of legislation.

**Hon. Thelma J. Chalifoux:** Honourable senators, I rise today to speak to Bill C-7. Let it be known that I am not a lawyer, but I am a matriarch of a large, extended family. For many years, I have worked in the community with children who have run afoul of the law. With my Métis background, I have worked primarily with Aboriginal children; but I have never seen the colour of a

child's skin — only the anger, the hurt and the confusion of a child's heart.

Our world has changed. In this past week, our country has come to realize that we are now a global community. When this bill goes to committee for consideration, I would like you, honourable senators, as a committee, to ensure that it addresses some of the concerns of the child, of the parents and of the judge.

First, over 51 per cent of children come from single-parent homes. With provincial social allowance regulations forcing these parents to work, the children become part of the latchkey generation. This allows the gang recruiters and the low-lives of our communities to infiltrate these children's lives. Thus begins the downhill spiral and the introduction to the justice system. Does this bill address the recruiters and the low-lives? The majority of them are young people, who themselves have been recruited by a gang leader or pimp.

Not all parents are good parents or role models. Does this bill address the role and the responsibilities that these parents must be forced to play in their children's lives?

Whether we like to admit it, there is blatant racism and stereotyping in many courtrooms in Canada. Does this bill address that issue?

Many Aboriginal children have lived in urban centres for two or three generations. They do not know their Aboriginal culture or identity. Should they be given the same sentence as the youth that has just moved to the city and has lived a traditional lifestyle without benefit of the knowledge of the laws of the city? Does this bill address the many differences between urban, rural and isolated communities so that the justice system can make good, fair decisions for each jurisdiction, no matter where it is? If not, how can it be addressed in this bill?

Many young people from the isolated settlements across Canada do not speak English or French as their first language. They usually speak only enough to get by when it is required. They do not understand the judge, the prosecutor or even their legal aid but are usually too shy to say anything. They plead guilty because they do not comprehend. Does this bill make provision for interpreters for these children?

• (1530)

I am pleased to read that this bill is addressing alternate models for sentencing and adjudication in the youth justice system. I have reviewed several sentencing circles and have been given excellent reports about the successes and the failures.

An article in the *Winnipeg Free Press* of September 23, 2001, states that there are about 70 sentencing circles in Manitoba for first-time offenders. About 20 per cent of young offenders and 5 per cent of adult offenders are dealt with through these circles. Less than one fifth of those dealt with by the youth councils are caught committing another crime, compared to more than half of other offenders. Does this bill address the need for financial resources for these circles, because the majority of them are volunteer?



In my opinion, the Legal and Constitutional Affairs Committee will be given one of the most important pieces of legislation for all Canadians, but, most important, for the segment of our society that is our future.

Our future lies with Canada's children. The majority of Canadian youth are law-abiding citizens. They accept their successes, their struggles and their failures in stride. Bill C-7, the Youth Criminal Justice Act, addresses the broad social issues and the legislative goals the government expects to achieve, and it still abides by the United Nations Convention on the Rights of the Child.

Honourable senators, I have presented you with some of the issues and concerns of which we should all be aware. Proper legal language is important, but we must not forget the human factors and how this bill will affect the child, the parent, the justice system and society as a whole.

Honourable senators, may the Creator bless and give you all wisdom in debating this bill.

**Hon. Jeremiah S. Grafstein:** Honourable senators, one question at the heart of the bill gives me some distress; that is, lowering the criminal age to almost 12, in some instances. It would be a disastrous situation as it applies to the city of Toronto. Does the honourable senator share that concern with respect to the Aboriginal communities?

**Senator Chalifoux:** Honourable senators, when I worked with young people, I found that the majority of 10, 11 and 12 year-olds were first-time offenders. They should not be put before a court, but they could be put before a sentencing circle where they would have to work with and help the victim. They would have to look at themselves. I completely agree with having sentencing circles, especially in Toronto.

**Hon. Willie Adams:** Honourable senators, I have a question about statistics. I think there are statistics stating that the Inuit population in Canada numbers a little more than 30,000 people. Aboriginals living in the South number a little over 2 million. Could Senator Chalifoux discuss these statistics in terms of Aboriginal inmates? I think somewhere between 70 and 80 per cent of Aboriginals are in jail somewhere in Canada.

**Senator Chalifoux:** With respect to statistics and the justice system as a whole, the Aboriginal population in Canada is less than 5 per cent, and yet anywhere between 40 and 60 per cent of the inmate population is Aboriginal. When I have looked at and worked within these systems, I have found much of the problem has to do with stereotyping, racism and a lack of financial resources to address the issues that the inmates have been charged with.

I do a great deal of work with Edmonton's Youth Offender Centre. When I go there and see the children, they are angry. There are very little or no counselling resources. There is nothing

for them. Native Counselling Services of Alberta has spent many years working in this area, but they do not have the ability or the finances, as I can see it, to address those issues. When we are looking at the statistics, we must also look at the services that are not available to the inmates, especially our women. Our women have no services and no counselling. They have nothing.

**Hon. Bill Rompkey:** Honourable senators, I want to discuss with Senator Chalifoux her point about language and culture. She made the point that the Aboriginal inmate population in our prisons far exceeds the national average, although the percentage of Aboriginals in the country is quite low. As she pointed out in her speech, much of this is because of language and culture and of not understanding.

We are fortunate in Labrador to have the first Inuk judge in Canada. Judge James Igloliorte is an Inuk, born in the community of Hopedale and now living and practicing in Goose Bay. He travels throughout Labrador.

How many Inuk judges are there in Canada? How many Indian judges are there in Canada proportionate to the need? The whole problem rests in not understanding what is going on. Part of it is language because many Aboriginal people speak their original language at home, and English is a second language for them. As we know, culture is bound up in language.

I wanted to give Senator Chalifoux an opportunity to expand on the problem of language and culture because that is a challenge for us in the issue of Aboriginal people versus the justice system.

**Senator Chalifoux:** First, I should like to speak about Aboriginal Justice Murray Sinclair, Associate Chief Justice of Manitoba. I wish to compliment him on establishing the excellent justice circles. We have them in Alberta and Saskatchewan, but I do not think they are working as well because of the financial situations.

In the cities, the Aboriginal children speak English and they speak French, but in the northern communities, in the mid-Canada corridor and in the Far North, the majority speak either Cree or their own language. When they come to the cities, they do not understand. When one goes up North, the judge does not speak the language, members of the RCMP do not speak the language and the prosecutors do not speak the language. Those individuals do all the judging. There is a real issue in those areas. When one looks at this bill, one must look at the different jurisdictions and areas of our country to address these issues.

• (1540)

**Hon. Anne C. Cools:** Honourable senators, could Senator Chalifoux give us a profile of the average Aboriginal offender? For example, how old is this person? What is the nature of the offence? Is the offence usually against a person or against property? Could the honourable describe the family setting of the average Aboriginal offender.

We have talked a lot about young offenders in this debate, but the Chamber has before it no profile of the typical young offender. Perhaps the honourable senator could give us a portrait of an Aboriginal young offender; as the debate continues, honourable senators, one hopes that we can get a profile of the young offender. I have done a lot of work on this topic. I am very interested in the number of young offenders who are charged with serious offences like murder.

**Senator Chalifoux:** Honourable senators, let us look at a picture. In the inner city, we have a single mother with five or six children between the ages of 1 and 13. The welfare worker is breathing down the mother's neck because she is not working, so the mother takes a menial job. She does not have the financial resources for a babysitter so the older children must look after the younger ones. Most of the time, if a food bank is not available, they go hungry.

One little nine-year-old girl came to our youth centre at about nine o'clock one night, just when we were getting ready to close up. She said, "Grandma" — because they call me "Grandmother" — "my mother has been gone for two days. I have no milk for the baby." That little girl had missed school and was looking after her little brother. We went to the store and bought food for her and the baby. If a welfare worker is called in these circumstances, the kids will be taken away and stuck in foster homes. We all know the horror stories of foster homes. When the mother comes back and sobers up, she is a good mother. We are faced with a dilemma here.

When the child does get out, he or she gets into the wrong crowd and into trouble. Years ago, trouble was in the form of vandalism. Today, these youth are involved in serious property offences and violence. They get into fights and assault charges are laid.

**The Hon. the Speaker:** I regret to advise that the time for the honourable senator's speech and for questions has expired.

**Senator Chalifoux:** May I have leave to continue?

**The Hon. the Speaker:** Is leave granted?

**Hon. Senators:** Agreed.

**Senator Chalifoux:** When the kids get into the court system, they are immediately put into jail, into the adult cells. I know because, on a few occasions, I have gone down to bail them out at two or three o'clock in the morning. These kids are terrified when they go to court. At times, there is a Salvation Army worker in court; at other times, a native counsellor is there. Most of the time, they are just left.

Sometimes Mom and Dad come. Usually they do not bother. In my experience, if the parents are present the judge is very lenient and looks on things more easily. Most of the time, the mother is working or cannot get a babysitter, and the whole cycle begins anew.

This is what disturbs me most. The last time I was at the Edmonton jail, I saw our young women charged with assault or

assault with a weapon, at the ages of 12 and 13 and 14. This is what is happening in our inner-city communities. Relatives come in from the isolated settlements and the cycle begins again with them. No one seems to care.

**Hon. Marcel Prud'homme:** Honourable senators, I will be very brief. If there is a role for the Senate, this is it — to study, to reflect and to listen to each other. I will not quote Senator Nolin, nor Senator Joyal, nor Senator Beaudoin. I will not quote the ex-deputy premier of the Province of Quebec, Senator Bacon, whom we all know to be a strong, opinionated, no-nonsense person. I will not quote our honourable friend Senator Chalifoux and the stories she has told us, stories that some of us knew already. I was in Winnipeg and in Churchill and I know the difference.

This is an opportunity for the Senate to put aside partisanship, and I speak mostly to the new senators. It is not a matter of this being a government bill and so we must pass it. Honourable senators have a responsibility to listen to the speeches. We should not arrive at our committee hearing with an already highly motivated intention to pass the bill, if it is approved after we listen to the witnesses.

Senator Joyal raised some good points, which were repeated by Senator Chalifoux. That is the real role of the Senate.

I followed this bill in the House of Commons. Even the few words that we have spoken here on second reading are of far better quality. This is not partisanship but a question of reflection. This is the role of the Senate. I will not read the notes that I took while listening to other senators; they have touched all the points. I hope the committee will study this bill — and I see the chairperson here — in a way that will make us proud of the role that the Senate can play.

If the bill is weak and needs to be amended, we should not be afraid of what those in the other chamber will say. I know the role of leadership; they want to pass their bill. That is so evident. In this kind of bill, everything has not been touched. I have not touched a Quebec issue. Just listen to Senator Chalifoux. We must have flexibility. Senator Nolin quoted us some facts and others have quoted facts — why should I repeat them?

[Translation]

In French, we say it is a question of society. Our attitudes and approaches differ according to where we live in the country.

[English]

We know it is popular to say that we will slap jail sentences upon these unruly kids. Sometimes, on the eve of voting, a horrible crime may take place, as happened in Montreal. Those of us who were abolitionists were very afraid of that happening when the death penalty was under discussion. I voted three times on that issue and once the result was very narrow. Mr. Fleming, of Toronto, and I invented the 25-year sentence, instead of the death penalty, because, otherwise, we would have lost that bill.



Honourable senators, I call upon you to go to the committee and not to delay unduly but to be flexible and make sure that the Senate can make a difference in what was presented by the other chamber.

**The Hon. the Speaker *pro tempore*:** I wish to inform the Senate that, if Senator Pearson speaks now, her speech will have the effect of closing debate on second reading of this bill.

• (1550)

**Hon. Landon Pearson:** Honourable senators, this has been an extraordinarily interesting debate. It reflects the attention and the seriousness with which everyone in this chamber regards this particular bill and the issue that it addresses, of young people in trouble with the law.

I should like to thank all of you who participated in the debate on Bill C-7, beginning with Senator Andreychuk, and including Senators Beaudoin, Nolin, Bacon, Joyal, Chalifoux, Prud'homme, Grafstein, Adams and Rompkey. Honourable senators have paid rich attention to the bill and have raised many questions.

It would be impossible for me at this moment to answer all of the concerns that have been raised. I do not, in fact, know the answer to many of the concerns. That is why I am waiting for the committee to bring together the experts, who will be able to help us clarify the issues raised by all honourable senators in this debate.

However, there are a few concerns that I would like to speak to. There have been questions raised — and I think this is important — regarding the balance between the protection of the public and the recognition of the special needs of young people and the importance of prevention and rehabilitation.

Since a vote on second reading is basically a vote on the principles of the bill, I would like to remind all honourable senators that Bill C-7 clearly emphasizes rehabilitation as a priority, but does so in the context of public safety. Clause 3(1)(a) lays out these principles.

Just to remind us of these principles, they are:

- (a) the youth criminal justice system is intended to
  - (i) prevent crime by addressing the circumstances underlying a young person's offending behaviour,
  - (ii) rehabilitate young persons who commit offences and reintegrate them into society; and
  - (iii) ensure that a young person is subject to meaningful consequences for his or her offence
- in order to promote the long-term protection of the public.

If we reflect on that, honourable senators, and whether that also provides the short-term protection of the public, I believe we

will find there are a number of clauses in the bill where the immediate protection of the public is being addressed as well.

Some honourable senators have also raised the issue of Canada's international obligations under the UN Convention on the Rights of the Child, a convention that Canada ratified in 1991. I am not sure that "ratification" is exactly the right word, but all provinces have now supported it and have asked the question as to whether or not this piece of legislation is in compliance.

In the preamble of the bill, there is the recognition that Canada not only is a party to the UN Convention on the Rights of the Child but also that young persons have all the rights and freedoms stated in the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights. In addition, under the Youth Criminal Justice Act, every youth younger than 18 must serve a youth sentence in a youth facility separate and apart from adults. The proposed act creates a presumption that young people serving adult sentences will also be held separately from adults. This is a question, of course, raised by Senator Joyal.

When we compare the bill with the existing act, we will find that the provisions dealing with the incarceration of youth are much more restrictive than is the case in the current act.

We agree in principle that youth should be held separately from adults in custody. There are some exceptional circumstances where this might not be advisable. Canada recognized this fact when it ratified the Convention on the Rights of the Child and took a reservation on section 37(c). Questions might arise, if one abides by the absolute law and reality, concerning kids from some far distant area having to be moved hundreds of miles from their parents in order to be in custody separately. Therefore, there are some important issues there that we need to explore. I have always supported the idea of removing that reservation, but we must see how it can be done and be clear about what the possibilities are.

Also, still with respect to the rights of young people, it is clear in the legislation that all youth will be tried in youth court by a youth court judge. This is different from what is happening now, where in fact some accused youth could be tried in adult court. A youth court judge will preside and will determine the appropriate sentence if and when the accused has been found guilty. This for me was a positive change, as well as for some colleagues across the way, in that we were bothered the previous time by the fact that youth could be transferred to an adult court simply on the charge rather than on the finding of guilt. Now he or she will not be moved to an adult court. On a finding of guilt, the sentence will be given by a youth court judge.

Another issue that must be fully studied and has been raised by senators here has relevance to the questions of Quebec. I have become aware in recent years of some of the challenges between the civil code processes and common law processes. We must be careful, when children have opportunities for alternative measures, that we are ensuring due process at the same time. A number of countries are horrified that our age of responsibility is 12. A number of them believe the age of responsibility to be 18.



However, the reality is that many countries are using other processes, social welfare processes, and some of the kids are being treated with no due process whatsoever. In many instances, poverty has been criminalized. It is something to which we must pay attention, when we are looking at the good examples in Quebec, that we look at two or three of the more negative examples that have happened there under the Youth Protection Act.

Honourable senators, Bill C-7 not only allows for but it also encourages the full participation of front-line professionals. This issue was raised by Senator Andreychuk. It encourages the full participation of front-line professionals working with young people. The proposed act provides for interventions by police and prosecutors and fully supports activities like conferencing with other professionals, including teachers, as well as persons of the young person's community. It is through such an interdisciplinary approach that young people will have the support they need to be rehabilitated and reintegrated into society.

In addition, much consultation has been undertaken as a part of the much broader strategy to involve players who in the past have not been fully included in the process, to help address the underlying causes of youth justice. I have had the privilege of participating recently, over the last two or three years, in a number of round tables organized by the Department of Justice with respect to youth justice. These round tables focused on mental health issues and on the importance of sports, recreation and artistic opportunities to prevent young people getting in trouble with the law. There were also round tables with respect to Aboriginal youth.

In all of these round tables, there has been a notable amount of youth participation. It is my hope that the committee will hear from young people, and not someone always speaking on behalf of them.

Honourable senators have also raised the issues of resources. The Government of Canada has made available close to \$1 billion over five years for funding agreements that will help provinces and territories implement the youth justice renewal. These agreements require that as much as 65 per cent of federal funds will be directed toward services and programs, not toward more facilities — more prisons, so to speak. These agreements are signed by the minister responsible for youth justice in each province and territory, as well as by the federal minister.

• (1600)

The manner in which the funds flow to the jurisdictions is outlined in each agreement, as are stringent reporting requirements. Perhaps \$1 billion will not be enough, but the provinces are also expected to invest somewhat in this. I think

there is a lot of money available, and we must ensure it is well spent.

The government will provide additional funding for innovative, community-based pilot projects, partnerships, training and other efforts that will support the renewal of the youth justice system.

I have been following closely, as have other honourable senators, the way in which the fund for crime prevention is being spent. I am impressed by how many projects that directly relate to young people have been funded. I have been following some of the evaluations, and it is exciting to see how things are beginning to work.

I have another response to Senator Andreychuk. Again, I am not a lawyer, so some of my responses will have to be filled in by the witnesses we call to clarify this matter. Senator Andreychuk raised an interesting issue with respect to the degree to which judges can rely on case law. I look forward to discussing this issue in committee. It seems that the proposed Youth Criminal Justice Act will make substantive changes in law in some fundamental areas, and in these areas of substantive changes it would be correct to say that the case law under the YOA would not necessarily apply. However, in other areas of the proposed legislation, the provisions are the same or essentially the same as the provisions of the YOA. It is therefore highly likely that in these areas the existing case law would continue to apply. It will be interesting for us to explore that further.

Senator Beaudoin raised some constitutional issues that I find particularly interesting, as do all committee members. I look forward to having an in-depth study of these issues.

The minister will no doubt speak for herself when she appears before us, but when she responded to the announcement of the Government of Quebec to refer Bill C-7 to the Quebec Court of Appeal, she said that it is in the opinion of the Government of Canada that Bill C-7 is constitutional and a valid exercise of the federal government's criminal law power and complies with the UN Convention on the Rights of the Child. She further indicated that, when enacted, Bill C-7 will not only allow Quebec to maintain but also to improve its youth justice system. It will be interesting to hear further elaboration on that statement.

Some of the questions Senator Beaudoin raised about the current law are the same. We will look at that with great interest.

Of the many issues that were raised here, I am particularly sensitive to those so eloquently raised by Senator Chalifoux. I am appreciative of the questions that were asked because they brought more issues to the fore. Members of the committee can constantly ask the questions she has raised so that in the end we are able to report back to the chamber with positive answers to those questions.

As honourable senators have heard over the course of these debates, Bill C-7 aims to create a fairer, more effective justice system in a number of ways: through, for example, emphasizing rehabilitation and reintegration of young people; encouraging the use of meaningful alternatives to custody; making better use of courts by dealing with less serious cases outside the formal court process; distinguishing between serious, violent and less serious offences; improving and expanding sentencing options; and eliminating the transfer of young people to adult court.

Youth justice is an issue of great interest to the Canadian public, and we are not all of one mind, as is clear from the discussions we have had today. We are playing an important role in ensuring that this bill will provide the best possible foundation for a youth justice system in which Canadians can have confidence.

I thank honourable senators for this fascinating, interesting discussion. I look forward to further debates and discussions in committee and when we bring the bill back to committee. This is an extremely important bill.

**The Hon. the Speaker *pro tempore*:** Honourable senators, it was moved by the Honourable Senator Pearson, seconded by the Honourable Senator Poy, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

Motion agreed to and bill read second time, on division.

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Pearson, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

## INCOME TAX CONVENTIONS IMPLEMENTATION BILL, 2001

SECOND READING—DEBATE ADJOURNED

**Hon. Marie-P. Poulin** moved the second reading of Bill S-31, to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

She said: Honourable senators, I appreciate the opportunity to speak today at second reading of Bill S-31, the Income Tax Convention Implementation Bill, 2001.

The purpose of this legislation is to enact eight tax treaties that Canada recently signed with other countries. The bill replaces the current treaties in force with the Slovak Republic, the Czech Republic and Germany, and it implements new treaties with Slovenia, Ecuador, Venezuela, Peru and Senegal.

The agreement with Germany replaces the existing one that was signed in 1981. It updates our bilateral arrangements with Germany and makes them consistent with current Canadian tax policy.

The agreements with the Slovak Republic and the Czech Republic replace the convention between Canada and the former Czech and Slovak Federal Republic signed in 1990. After the peaceful breakup of Czechoslovakia in 1993, both the Czech Republic and Slovakia were anxious to conclude separate bilateral agreements with Canada.

The remaining five conventions are the first comprehensive tax treaties ever concluded between Canada and Slovenia, Venezuela, Peru, Ecuador and Senegal. They result from Canada's continuing efforts to expand its network of tax treaties and are designed to provide taxpayers with more certain and equitable tax results in their cross-border dealings.

As with previous tax treaties, these agreements are largely patterned on the model convention of the Organization for Economic Co-operation and Development, known as the OECD, that is accepted by most countries around the world. The provisions in the treaties in Bill S-31 comply fully with the international norms that apply to such treaties.

Before reviewing the bill, honourable senators, I first want to provide some background that will put the legislation in context.

• (1610)

[Translation]

Honourable senators, I should like to say a few words on Canada's income tax system. Since the inception of income tax in 1917, Canada has taxed global revenues of Canadian residents and revenue from Canadian sources of non-residents. These two fundamental elements that have characterized Canadian income tax since the outset remain with us today.

In other words, the total income of Canadian residents, be it earned here or abroad, is taxable in Canada. However, non-residents are only taxed to the extent that they participate in Canada's economy, or receive income from Canadian sources.

In this respect, Canada's tax system works in accordance with international standards. When our income tax system was reviewed in 1971, one of the results was a broadened network of tax treaties between Canada and other countries. Since then, sustained efforts have been made to keep this network up to date. Bill S-31 is consistent with these efforts. Our network of tax treaties is one of the most comprehensive networks in the world.



Canada currently has tax conventions or treaties with over 70 countries. Tax conventions are also in effect between Canada and all its main trade partners, and with 27 of the 30 OECD members. Negotiations are underway to sign tax treaties with two or three countries that have yet to reach such agreements, namely Turkey and Greece, while the official coming into effect of an agreement signed with Portugal is pending.

Canada's tax conventions are all developed with two objectives in mind. First, they are designed to prevent double taxation and establish, with a degree of certainty, tax rules that apply to international transactions. The possibility of double taxation arises when a taxpayer resides in a country and earns an income in another country. Without a tax convention, both countries could collect taxes on this income.

Conventions on double taxation ensure that such income is not taxed twice. Our tax agreements achieve this result in three ways. First, they split the taxation rights between Canada and the other party to the convention, in various categories of income. Second, they establish rules to settle cases of double claim regarding a taxpayer's residence or source of income.

Finally, tax agreements allow taxpayers who feel they are being treated unfairly under a tax convention to submit their case to tax authorities.

The second objective of a tax treaty is to promote co-operation between taxation authorities, so as to prevent fraud and tax evasion. This objective is achieved in a number of ways, including by splitting profits between parties dealing at arm's length, ensuring that national laws apply to a failed transfer and other international tax evasion schemes, and providing for the exchange of information between competent tax authorities. In some cases, this objective is also achieved by providing mutual assistance for tax collection purposes.

[English]

Honourable senators, let me take a moment and explain why relief from double taxation is so necessary. In the absence of international agreements, double taxation can adversely affect economic relations between countries. One of the main reasons is that tax treaties are directly related to international trade in goods and services and therefore have a direct impact on our domestic economic performance. In Canada's case, this impact is significant. Canadian exports now account for more than 40 per cent of our annual GDP. Moreover, Canada's economic wealth each year also depends on direct foreign investment as well as inflows of information, capital and technology. Clearly, double taxation can have harmful effects on the expansion of trade and the movement of capital and labour between countries. As a result, it is important for Canada to have tax treaties in place.

Honourable senators, I turn now to some of the specific measures of Bill S-31. The tax treaties in this bill set out under what circumstances and to what extent Canada and its treaty members may tax the earnings of each other's residents. Some of the more discernible restrictions concern withholding taxes. In Canada, certain income, such as interest dividends and royalty

payments to non-residents anywhere in the world, is subject to a withholding tax. This practice is a common feature in international taxation. Canada's network of tax treaties provides for several withholding tax rate reductions, the overwhelming majority of which operate on a reciprocal basis.

Without a tax treaty or other legislated exemptions, Canada generally taxes income paid to non-residents at the rate of 25 per cent of the gross amount of the payment. The eight treaties contained in this bill reduce the rates of withholding tax that can be levied in Canada and by each of our respective trading partners. For example, all of the treaties introduce the maximum rate of withholding tax of 15 per cent on portfolio dividends paid to non-residents. Moreover, in the case of dividends paid by subsidiaries to their parent companies, the maximum rate of withholding tax is reduced to as low as 5 per cent. The maximum rate of withholding tax on interest and royalty payments is generally capped at 10 or 15 per cent under each of the eight treaties being implemented. As far as periodic pension payments are concerned, the maximum rate at which withholding tax can be levied is set at 15 per cent in all but the treaty with Venezuela, where it is set at 25 per cent, as specified in our income tax law.

In addition to the provisions limiting the amount of withholding tax that can be levied on payments made to non-residents, the treaties also implement other measures that ensure that the tax consequences of certain transactions are in line with Canadian tax policy.

While time does not permit me to go into detail, I wish to look briefly at Canada's new taxpayer migration rules that came into force last June when Bill C-22, an act to amend the Income Tax Act, received Royal Assent. The concept that Canada should tax individuals on all capital gains that accrue while they live here has been part of Canada's tax policy since 1972. In 1972, capital gains first became taxable under the Income Tax Act. Since then, special rules have applied to people who cease to be resident in Canada. The basic rule on immigration is that individuals leaving Canada are treated as having disposed of all of their property before changing residence, with the result that any latent gains or losses are realized. The general effect is therefore that an emigrant is taxed on gains that accrued while a resident of Canada, regardless of whether the property to which those gains related is disposed of before or after the point of emigration.

For many years, there were questions about the exact scope of this deemed disposition on departure from Canada and how it affected our international tax treaties. Through Bill C-22, Canada retains the right to tax departing residents on gains that accrue during the period they lived in Canada.

Since December 1999, in anticipation of these rules coming into effect, Canada has been negotiating its tax treaties to reinforce protection against double taxation and to reduce costs to the government when Canadian residents leave to live elsewhere. In all but one case, the treaties in Bill S-31 limit the need for Canada to provide tax relief to former Canadian residents to ensure that they are not taxed twice on gains that accrued while they lived in Canada.



• (1620)

Honourable senators, given our significant economic ties with Germany, I also want to make some brief remarks about the new Canada-Germany tax treaty. Indeed, Germany is Canada's fifth largest export market. Direct German investments in Canada currently exceed \$7 billion.

First, the new agreement with Germany is the only treaty in Bill S-31 that provides for mutual assistance in the collection of outstanding taxes. That means that either country will take measures to collect taxes owed by their residents to the other's government. At present, Canada has similar reciprocal arrangements with the United States and the Netherlands.

Second, under the new tax treaty with Germany, Canada will no longer be barred from taxing pension payments that Canadian residents receive from Germany's publicly funded plans. This change is appropriate given that many German public pensions perform a role similar to private pension plans in Canada.

Honourable senators, Bill S-31 contains forward-thinking measures that will promote trade and investment and provide taxpayers with more certain and equitable tax results in their cross-border dealings. All the treaties covered in this bill are part of Canada's larger efforts to build goodwill and create the conditions for growth that will make closer, more dynamic relations with our trading partners possible. Again, meaningful benefits for taxpayers will result from the passage of this bill.

Taxpayers will benefit from knowing that a treaty rate of tax cannot be increased without substantial advance notice. The mere existence of tax treaties will engender an atmosphere of certainty and stability for investors and traders. By eliminating the need to pay tax on certain business profits and by providing a mechanism to settle problems encountered by taxpayers, both annoyance and complexity in the operation of the tax system itself will be reduced.

Simplifying the tax treaty system will encourage more international activity, which will have a favourable effect on the Canadian economy. Those within the Canadian business community support the revision and expansion of our network of tax treaties. I am confident that they will welcome the opportunity to continue promoting trade and investment relations with these eight countries.

The business community, in particular investors, will also welcome the limits that these treaties impose on each country's ability to tax certain income and the cooperation that will ensue between Canada and other tax authorities.

The most important benefit to be derived from these treaties will be the elimination or alleviation of double taxation that might otherwise arise in international transactions with these countries.

In light of the positive effects that will result from this bill, honourable senators, I urge you to pass it without delay.

On motion of Senator Lynch-Staunton, debate adjourned.

[Translation]

## CANADIAN NATO PARLIAMENTARY ASSOCIATION

MEETING OF SUBCOMMITTEE ON FUTURE SECURITY  
AND DEFENCE CAPABILITIES, MAY 6 TO 11, 2001—  
REPORT OF CANADIAN DELEGATION TABLED

Leave having been granted to revert to Reports of Interparliamentary Delegations:

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table the fourth report of the Canadian NATO Parliamentary Association, which represented Canada at the meeting of the Subcommittee on the Future Security and Defence Capabilities of the NATO Parliamentary Assembly, held in Belgium and the Netherlands from May 6 to 11, 2001. The Canadian delegation was represented by David Price, M.P.

SPRING SESSION OF NATO PARLIAMENTARY ASSEMBLY,  
MAY 27 TO 31, 2001—REPORT OF CANADIAN DELEGATION TABLED

**Hon. Pierre Claude Nolin:** Honourable senators, I have the honour to table the fifth report of the delegation of the Canadian NATO Parliamentary Association. It is the report of the official delegation which represented Canada at the spring 2001 session of the NATO Parliamentary Assembly held in Vilnius, Lithuania, from May 27 to 31, 2001.

[English]

## IMMIGRATION AND REFUGEE PROTECTION BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Morin, for the second reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

**Hon. Consiglio Di Nino:** Honourable senators, debate on the government's latest immigration legislation comes at a time when so many of our fellow citizens are mourning the thousands of lives lost in the World Trade Center and Pentagon attacks in the United States. Let us understand that while the target of those senseless acts of terror may have been America, it is the world that is the victim.

Since the tragic events of September 11, countries in every part of the world have begun looking at ways to eliminate, or at least minimize, the possibility of such acts occurring on their own soil. Soon, they will be instituting new rules and limitations for each of their ports of entry. As a result, the ease with which we now routinely cross borders will change. This is, perhaps, inevitable, but how unfortunate we did not heed the many warnings of impending attacks.

Terrorism, honourable senators, is far from the daily preoccupation of the average Canadian. Unlike some parts of the world, we do not fear bombs and bullets each time we step out our front doors — at least not yet. As a result, we have traditionally taken a relatively laissez-faire attitude toward border security. We have bragged about the having longest undefended border in the world without paying enough attention to ensure that the same border remains undefended. Yet many in our policing and security communities have expressed grave concerns about the state of our border controls. They have warned us that controls have been weak and resources have been too scarce.

Their concerns are shared by their American counterparts. In fact, a number of Canadian and U.S. officials and commentators have been critical of our border controls. If the evidence in the Ahmed Ressam case is any indication, these people, and our own police forces and security agencies have a right to be concerned.

For those unfamiliar with the case, Ahmed Ressam is a protege of Osama bin Laden. He came to Canada in 1994 and lived for a number of years in Montreal in deportation limbo before attempting to cross into the U.S. to bomb some of the millennium celebrations being held in that country. This is, perhaps, a particularly egregious case, but many argue that it is symptomatic of the flawed nature of our immigration and refugee systems.

According to a recent CSIS report, Canada is home to about 50 terrorist organizations. Not surprisingly, we are also a favourite target for transit routes to enter the United States. In the week of the events of September 11, the Americans increased pressure on us to tighten our border security. Failing this, they may act unilaterally, and who can blame them? Does this legislation provide the means for dealing with these significant concerns? This question remains to be answered.

Honourable senators, the case of Ahmed Ressam, and others like him, underlines the very real problems facing our immigration and refugee systems, in particular the time it takes to process cases and the thoroughness of the investigations.

• (1630)

It is one thing for the government to promise that this legislation will expedite the processing system, including faster security clearances, but expediting the process does little to mend the real problem, that being the issue of security screening. It will be incumbent upon us in committee to ask the appropriate witnesses about this crucial part of our efforts to keep out criminals.

The government has made much of its proposal to increase fines for human smuggling to \$1 million. Those are big fines, but if big fines are to have any deterrence value, they must be imposed when the case warrants it. I am told that the current maximum penalty, which is \$500,000, has never been levied. Do we really think that an even higher one is any more likely to be imposed?

A similar argument can be made about the proposal in the bill for life imprisonment. What is the point of having such a penalty if it is unlikely that it will ever be handed down? When I see rapists and killers getting conditional sentences, I am hard-pressed not to be pessimistic about the chances of this provision actually being enforced, unless, of course, it is made mandatory.

I am, nevertheless, heartened that this legislation builds on the foundation laid out by the former Mulroney government respecting criminality. As I clearly recall, members of this government, while in opposition, strongly opposed provisions for removing or declaring inadmissible people suspected on reasonable grounds of having participated in serious criminal activity before coming to Canada. Happily, the government has chosen to retain this in the present act.

Honourable senators, debate on this bill allows us the opportunity to review those aspects that have, or could have, the objective of combating terrorism, terrorists and criminals in general. We owe this to the victims of the September 11 tragedy, many of whom are Canadians. Let us not forget that the victims in this case are not only those who lost their lives. They also include tens of thousands who were injured and hundreds of thousands of family members, friends and relatives who were affected by what happened. They, too, are victims and they, too, are looking to us for firm action.

Honourable senators, immigration and immigrants have added immense value to Canada. Over the years they have played a vital, indeed crucial, role in development of our social and economic objectives. Without a vibrant and competitive immigration system, our country would not be in the envious position in which it finds itself today. This is true for the future as well.

Our “open arms” policy toward newcomers must not change. For this to happen, we must retain the support of our fellow citizens. Canadians will support fair immigration policies if we do our part to ensure they are coherent, responsible and in the best interests of the nation. This does not mean we should have an “open door” policy. We must find ways of keeping undesirable people out in the first place and hastening the departure of those who come to our shores and abuse our immigration and refugee system, particularly for criminal purposes.

We need to do more to protect ourselves and the world against terrorists and criminals. I do not speak of a knee-jerk reaction but, rather, of taking time to examine the issue properly and thoroughly.

The government tells us it is in a rush; that this bill must be adopted sooner rather than later; that we do not need debate, as we have consulted far and wide; that we must just pass the bill. I cannot agree. We understand that the government has spoken to many people, but that was before the events to which I have been referring. What happened in New York and Washington has focused attention on an issue that should have been dealt with long before now.



Honourable senators, let us take the opportunity afforded us by the tragedy in the U.S. and do something positive to improve border controls and security screening. We should look at this as part of the responsibility of member nations of the world which, as I said before, is the real victim of the terrorism of two weeks ago.

This government has enjoyed the benefit of office for eight years now. Yet its position and pronouncements regarding immigration, the sovereignty of our border, and security and refugee protection are haphazard to say the least.

I find it troubling, as I am sure that many in the chamber do, that the government's view and vision of these issues remain so incoherent. The fault for this, I believe, lies squarely with the Prime Minister. He is the person who sets the tone for the government. It is his vision that guides much of what is said and done. Yet, as those who saw him during the press conference in Washington can attest, he lacks a larger vision when it comes to international affairs. It seems to interest him little that protecting our borders and providing a safe, secure and just refugee and immigration system are significant public policy issues to which he and his government should be paying much closer attention.

Honourable senators, human migration is destined to be one of the most significant challenges of this century. Millions and millions of people will be on the move. We need bold approaches and far-sighted policies to prepare our nation for these eventualities. I do not see this legislation accomplishing that.

Critics of this legislation — and I understand that there have been more than a few — have expressed a wide variety of concerns. Members of the legal community, for example, believe it falls short in recognizing the principles of natural justice, particularly the right to due process, impartiality and fairness. They say it is unclear whether the provisions of Bill C-11 that suspend appeal rights will stand the test of the Charter of Rights and Freedoms. I am not an expert on this issue, but I think it is one that the committee would do well to explore during its hearings.

Returning to the government's desire for haste, I notice that throughout the information provided by the minister on Bill C-11 there are numerous references to faster removals, quicker decisions and so forth. The minister tells us that reducing refugee hearing panels to one member and denying appeal rights will result in more rapid decisions. That may be so, but at what cost? The impression I am left with is that the principles of fundamental justice are expendable in favour of more expeditious processing. Is this the best this government can do? Surely, it must be capable of formulating a well-balanced process through which claims can be dealt with swiftly without sacrificing fairness.

On the subject of process, honourable senators, it has come to my attention that this bill will contain quite a number of regulations. I use the future tense because I understand that these regulations have been drawn up but have not as yet been released

to parliamentarians — the same parliamentarians, by the way, who are supposed to discuss the merits of this bill.

As honourable senators know, the issue of use and abuse of regulations is a perennial one, but for all the debate the core issue remains unresolved; namely, the bypassing of parliamentarians as the key players in the governance of our country. Are we now entering the era of government by regulation?

During the Conservative years, members opposite were forever at the barricades fighting against any changes they believed would lessen Parliament's ability to consider an amending law. What happened, I wonder? As I look across the aisle, I wonder, "Where are your voices now? What happened to your concerns?" Express them, my friends.

**Senator Grafstein:** Be patient.

**Senator Di Nino:** I look forward to hearing them.

The issue will obviously not be solved in a day or even two, but where and when do we draw the line? When Parliament is so completely irrelevant that it no longer matters?

Honourable senators, another issue raised by this legislation is the brain drain. For years now, Canada's business and trades communities have advised the government that there is a growing shortage of skilled labour to meet their needs. Experts are saying, as senators probably saw in the papers recently, that there is a real possibility of having to raise the retirement age to 67 to compensate for a projected shortage of labour. The minister's response to this growing problem has been far from reassuring. She has suggested that the government abdicate its responsibilities for human resources planning through immigration selection and hand it over to individual firms and sectors.

• (1640)

This change needs to be looked at carefully in order to achieve a balanced approach to immigration management.

Honourable senators, a long-term vision of Canada's needs is required.

On the question of foreign credentials, the minister has promised to work with the provinces. I am not sure exactly what this means, but I suspect it means that nothing will be done. The issue has been allowed to lie for over eight years without any progress. The plan appears to be to make promises and then allow them to become locked into a drawn out process from which the issue never emerges. The issues are never resolved, but the promises are made once again during the next election.

The same is true for immigration numbers. For years the Liberals have been promising an immigration target level of 1 per cent of our population, around 300,000. As you may have guessed, they have never met these targets. In fact, last year approximately 226,000 newcomers entered Canada, well short of the numbers promised.



The government seems to have difficulty attracting the number of immigrants that our country needs in order to support our economic and social interests. Bill C-11 does little to change this. The government has not proposed anything else that would structure immigration policy in a way that would assist Canada by attracting the new citizens who are vital to our overall prosperity.

Honourable senators, the issue of backlogs deserves the attention of the committee. The government may tinker as much as it likes with selection criteria, but if operational backlogs and processing delays become the norm, as is now the case, the purpose of the changes is defeated.

For those who may have forgotten, the previous government closed the backlog offices in the 1990s after clearing up the cases of the immigration boom of the late 1980s. Unfortunately, those backlogs have returned.

You need look no further than the Auditor General to find the reason for the backlogs. The Auditor General stated emphatically over a year ago that sufficient resources are not available to the people of the Department of Immigration responsible for processing the targets that the government has set.

Honourable senators, a lack of funding is perhaps the pivotal obstacle in terms of overall operational effectiveness of the immigration department. This subject too needs to be thoroughly discussed in committee.

In fact, the committee needs to look at a host of issues, some of which I have mentioned, some I have not. The committee should look at issues such as possible Canadian connections to the events of September 11, 2001. The committee should examine issues such as border controls, immigration related security checks, resource requirements for Canada's immigration, customs, security and police agencies and fairness and due process in our immigration policies.

At all costs, we should resist pressure from the government to rubber-stamp this legislation, or any other legislation for that matter. Let me assure all colleagues that this side has no intention of delaying the bill unnecessarily, but we should not, and hopefully will not, abdicate our responsibility to fully and thoroughly analyze the contents of Bill C-11 to ensure that it deals appropriately with the issues that I and others have raised.

Since the bill has arrived at the Senate, momentous events have occurred. They have affected the lives of millions of people worldwide. Despite this and despite the close link between the events in the United States and the subject of the bill before us, the government claims that it is business as usual.

Honourable senators, I readily admit that the bill is an improvement over existing legislation, but the events of September 11, 2001 cannot be ignored. The government cannot be blind to the urgent need to review border and security provisions thoroughly and properly. We have learned in recent

days many new facts surrounding the Ahmed Ressam case. Are we sure there are no more Ahmed Ressams lurking in the bushes? Surely we possess the equipment, intelligence and planning to catch future terrorists before they can execute their destructive plans?

Before concluding, I wish to touch on two important questions. The events of September 11, 2001 brought out much of that which is best in human kind's spirit and values. Unfortunately, it has also provoked examples of the darker side of some communities in this country and the U.S.

Over the past two weeks we have heard stories of people who are believed to be followers of Islam being subject to verbal and physical violence. This, as I am sure all honourable senators will agree, has been unfortunate and unacceptable.

Honourable senators, Arabs and Muslims are as much victims of the attacks in the United States as we are. It is important that through this bill and our discussions we send a strong message to all Canadians that mindless acts of hatred and violence against followers of Islam have no place in our country.

We need to get the message out that when people attack and demean their fellow citizens on the basis of their religious background, they are in reality attacking and demeaning all of us.

Honourable senators, my last topic deals with a growing concern of mine, one which I believe is shared by many on both sides of this chamber. My concern is in regards to the frequency with which governments, all governments in the past number of years, seek to limit debate in the Senate.

Despite the serious and clear concerns expressed by many people about a variety of issues related to this bill the government insists doggedly that there are no problems with it. The government says that the bill should be passed quickly, and flaws could be fixed later.

If the government wants to ram this or any other bill through the House, so be it. We on this side can count as well as they can. If we are to rush bills through in order that the government can avoid controversial debates, we should be asking serious questions. Why are we here? What value do we have as an institution if all we do is abdicate our responsibilities when the government side of this chamber is ordered to vote this way or that? How relevant are we to the public policy process if we allow this to happen with no word of protest?

The Fathers of Confederation saw the Senate as an independent body with principles responsibility in the areas regional and minority interests and the sober second thought to legislation and. They gave this body immense power. Unfortunately, long ago we abdicated any responsibility for regional interest. In the past few years, we have started to do the same in the area of sober review of legislation. It is getting worse, if my time here has been any indication.

Honourable senators, we should not be unduly influenced by the treatment of legislation in the other place. We should do our job and take whatever time necessary to review all legislation that comes before us. If we are not ready or permitted to do so, then I ask again, why are we here?

Honourable senators, I look forward to all pertinent discussions dealing with this matter when it is referred to committee.

**Hon. Jeremiah S. Grafstein:** Honourable senators, in the midst these extraordinary times the Senate is called upon to consider Bill C-11, respecting immigration in Canada passed by the House of Commons in June 2001. Immigration calibrates the heart of our nation. Canada is unique society composed of citizens from practically every race and religion in the world. Rapid increase in our economic growth and prosperity can be measured in direct proportion to the increased flows of immigration. All studies demonstrate that the immigrant contribution increases our economic prosperity more quickly and more widely than is generally accepted or generally known.

We are a trading nation as one honourable senator mentioned today. Almost 50 per cent of our trade is based on international trade. All agree that immigrants can provide bridges to those new markets. In Toronto, Bloor Street/Danforth Avenue cuts across the entire city and has more ethnic and regional restaurants clustered near it than the 189 member states of the United Nations.

• (1650)

In the last decade, Toronto's small Afghan immigrant community has grown to over 20,000, many of whom are now proud Canadian citizens. In Toronto, the police can arrest people in over 130 languages, and Toronto City Hall can provide services in 80 languages, which is on the increase according to the mayor. Toronto is the first city in the world to give birth to a multilingual television station that programs in more than 18 languages, weekly.

I see Senator Di Nino smiling. Before becoming a senator, I was a proud co-founder of that thriving venture. I understand that Senator Di Nino was an advertiser.

There are at least, at my last count, 190 different language groups in Toronto. One out of every three households speaks a third language at home other than English or French. Why is that? What is the secret of Toronto's remarkable story?

Canada became a magnetic attraction for immigrants from around the world because of three words: security, freedom and opportunity — security to practise the religion they chose and the way of life they chose to lead; freedom to enjoy full and democratic rights without fear or frustration; and, above all, the opportunity for them and their children to be educated so that they could aspire to an even greater, more prosperous future.

In Metro Toronto, which I proudly represent, we have opened up our civic society from the bottom up. The municipal,

provincial and federal governments of elected and appointed members reflect the polyglot streets of Toronto. The faces and the voices of Toronto streets are represented in the power structures of Toronto, from the city to the province to the federal government.

The federal caucus, honourable senators, represents a cross-section of immigrants and sons and daughters of immigrants, but it was not always so. In Canada, for example between 1920 and 1947, only 27 immigrants from China were allowed entry: only 27 over a period of 27 years. I need not repeat the shameful story about the feeling that "one was too many" before and after World War II.

It was only in the 1950s, under successive Liberal and Conservative governments, that the door slowly opened and immigration became once again, as it was at the turn of the century, one of the great engines of our economic growth. The 1982 Charter, fuelled by this new Canada, enshrined the principles of equality in our Constitution. Thus, it is no surprise that the Charter itself has replaced both the Crown and Parliament as the most popular public document of national unity in every region across Canada.

Yet, on September 11, the shroud of uncertainty passed over our entire nation. We have learned that a small minority among us came to Canada under false pretences — not for security, not for freedom, not for opportunity, but for evil, unlawful and fraudulent purposes — to lay await and prepare the ground for acts of terrorism.

Honourable senators, this came as no surprise to the Senate. The Senate pointed this out in January 1999, when the Special Senate Committee on Security and Intelligence reported the question of the deficits of intelligence and security, and the dangers of terrorism. It was brought to Parliament's attention by the Senate.

This was followed by a Canadian Security Intelligence Service report on May 3, 2000, that dealt with the terrorism threat within and without Canada. I will quote a brief passage from the report, page 4:

Over the past 15 years, we have witnessed a disturbing trend as terrorists move from significant support roles such as fundraising and procurement to actually planning and preparing terrorist acts from Canadian territory. In order to carry out these efforts...they abuse Canada's immigration, passport, welfare and charity regulations.

The Canada-United States Inter-Parliamentary Group, which I chair as your Senate representative, established three years ago a bilateral committee of Canadian parliamentarians and American senators and congressmen to examine this same question. This was brought to my attention by Congressman Gilman, who said that this was an important issue and a bilateral question that we should examine.



We immediately set up a bilateral committee. Mr. Bill Graham, Chairman of the House of Commons Committee on Foreign Affairs, and the Honourable Ben Gilman, then Chairman of the Foreign Affairs Committee in the House of Representatives, are the co-chairs of this informal bilateral committee. They held a number of meetings.

Honourable senators, we have on the public record now, as Senator Di Nino pointed out, the case of the "millennium bomber." The American transcript and the judgment in that case deals with the deficits of both the United States and the Canadian security authorities, and these are all now part of the public record. These terrorists entered Canada and may have received support and sustenance here. It is a very small number, and it is a shame that these fanatics can hold the majority of all Canadians to a form of obscene ransom.

What are we to do, honourable senators? What should be done in the current circumstances?

While we cannot be lax on security, we cannot be lax on liberty. In its essence, this wave of terrorism camouflages a ruthless, religious persecution against those who do not share their fanatical views. We must fashion our laws to ensure security, without diluting liberty. We must extract the exquisite equilibrium in security without diluting the immigration flows that lie at the very heart of our present and future economic growth. We must not fashion afresh laws which overreact to this delicate, rather surgical operation. The Senate need not rush to judgment. I share Senator Di Nino's view in that respect.

Our colleague in the United States Senate, Senator Leahy, is a great friend of Canada. He is an active member of the Canada-U.S. Inter-Parliamentary Group, a member of the American delegation to Canada at our last meeting, and the Chairman of the Judicial Committee in the U.S. Senate. He is currently studying similar measure in the United States. Last week, he urged caution to the U.S. Senate to take care before rushing to judgment. He, too, is concerned about the balance between liberties and security. This is nothing new to Canada, and the United States Senate shares that concern.

Honourable senators, the Senate must do what I consider we do best. In a careful, meticulous way, we must review the Immigration Act and amend it, if we must, to restrain the government if we should discover overzealous provisions after a careful consideration and weighing of the evidence. I anticipate that the committee will listen to a wide range of witnesses.

It might be useful, for example, to compare similar provisions of other jurisdictions of the Commonwealth, not just the United States. What about the United Kingdom, Australia and New Zealand who all share our parliamentary traditions and practices? Perhaps we should hear from them? They may have some better answers.

We must fashion, honourable senators, a made-in-Canada immigration law to suit Canadian national interests. Our citizens expect us to examine this bill carefully to see what steps must be

taken to satisfy our citizens about their security, but about their freedom as well and their economic prospects, through the medium of immigration, which has become part of the lifeblood of Canada.

Further to the tragic event of September 11, broader questions should be asked. The Senate should ask these questions of itself: What is the current threat to our security? Is the refugee flow a threat to our security, as some would suggest? Is it the poor and impoverished immigrants who are the threat to our society?

From the limited evidence we have, my answer is "no." The evidence suggests to me that these terrorists appear to be well-educated, middle-class fanatics. This phenomenon was brilliantly analyzed by Mr. Eric Hoffer in his book from the 1950s entitled *The True Believer*. I commend it to each honourable senator before we launch into a study of Bill C-11.

• (1700)

It was not the poor, but the disaffected rich and the middle class that became the fanatics. Remember who our targets are. Our concerns must be directed surgically toward analyzing the nature of our security concerns. We must focus on these cells, which appear to have support and substance in Canada. We should focus on the problem and not expand the powers that close the doors to open-door policy. I do not agree with the Honourable Senator Di Nino. I believe we should have an open door policy in this country. We are smart enough, intelligent enough, and our information is better than most because we are a connected nation that can come to conclusions quickly and fairly.

However, Canadians want reassurance that fanatics — like in the movie *The Manchurian Candidate* — cannot come alive and detonate a climate of fear amongst Canadians. Larger questions, some administrative, some legislative, should be addressed at second reading, as senators suggested.

Almost everywhere in the world, immigration officers are the front line when visitors, immigrants and refugees enter the country. Immigration officers have a different perspective and training. In Canada, however, the front line is the customs officer, who is concerned with purchases abroad and questions of duty on goods. Surely this situation can be changed quickly. We are the only country in the world, I believe, that does that.

Practically all countries have people check in and check out in order not to overstay their visit; if they do so, they will not be able to return for a second time. Canada does not have procedures to ascertain that visitors or even disallowed immigrant claimants leave when they are required to do so. Therefore, many overstay their visit without difficulty. That is not right, that is not fair, and that can be corrected administratively. We should hear from the ministers about that.

I have been told that the passport swipe procedure used by most countries to keep track of this flow is of Canadian design. Apparently, we designed it in Canada; however, I am not clear at this moment whether it is in use in Canada now. I believe it is not.



I am told that law enforcement computer bases — and this is pointed out in the CSIS report — for wanted persons and criminals, both domestic and international, do not interface with our immigration and customs computer system. We have the criminal system on computer and the immigration and customs system on computer, but they do not interface with one another. I am told that that can readily be done by changing computers and putting the software programs together. I understand it has been done in specific situations but not as a general application. Therefore, there are delays in the immigration process because the immigration officers do not have information at their fingertips.

Surely, the committee should be concerned with a proper database, one that could enhance security and enhance acceleration of the immigration process while at the same time guaranteeing privacy. These are the questions we should be asking.

Questions have been raised in relation to the Immigration Appeal Division. Some have argued that 10-year tenure without reappointment has diluted the independence and the credibility of the Immigration Appeal Division. I hope the Senate committee can explore this. The nature of appeal provisions under section 64 —

**The Hon. the Speaker:** Senator Grafstein, I am sorry to interrupt, but your speaking time is up.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** May I inquire of the honourable senator how much time he needs to complete his remarks?

**Senator Grafstein:** Another four or five minutes.

**The Hon. the Speaker:** Is leave is granted, honourable senators?

**Hon. Senators:** Agreed

**Senator Grafstein:** The nature of appeal provisions under section 64 is a matter of some controversy among civil libertarians. Let us give that matter a careful look. It will require careful examination in light of circumstances, obviously, but it is important to strike the appropriate balance between rights and responsibilities under the Charter.

The other day I received a letter from an immigration officer. I wish to read part of that letter. It says, in part: "Dear senator: I hope you will address the part of the bill where eligibility to claim refugee status must be determined within 72 working hours, if not the person is deemed eligible. Most refugee claimants arrive on bogus documents or no documents, having destroyed them en route, so their identity is at issue. Even for people who are Canadian residents who we strongly suspect of criminality within Canada-U.S., it will take over 72 hours to get a complete and current record from CPIC and the provincial data bases." He goes on to say: "However, it takes only one board member to grant refugee status but takes the majority panel of three to remove it. As you probably know, very few failed refugee claimants are actually removed from Canada due to limited CIC resources." The writer concludes his letter by saying: "Thank goodness we have a Senate for a second review."

That is from a former refugee claims officer. That is important.

I cannot conclude but by referring to the barbaric events in New York, Washington and Pennsylvania on September 11. My son was there — my three grandsons live in New York. My son witnessed the events it from his office, not a mile away. It involved a cold, deliberate hijacking, piracy, kidnap and murder of nationals from around the world, not only American nationals, as has been pointed out, but nationals from 50 countries around the world. Close to 6,700 are now estimated to have been lost. Somewhere between 25 and 70 Canadian nationals are still missing, we have been told.

What bothers me, honourable senators, is the dialectic that seems to have arisen in Canada that this is an American problem, that the responsibility for responding to this vicious attack is theirs, and, therefore, that Canada as a good neighbour and ally in that capacity should assist.

I question that formulation of the problem. I disagree with that dialectic. I believe that under international convention and treaty law, Canadian sovereignty has been violated, pierced by these aggressive, violent and deliberate acts. This is as much a problem for Canadian sovereignty as it is for the United States. What is our responsibility in light of such an attack on our nationals?

On September 12, the day following the events in America, Canada supported a NATO declaration under Article 5. Canada supported a declaration in the UN, and I quote: "The described acts as a threat to international peace and security." The Security Council did that. Both the NATO charter and the UN charter are part of Canadian domestic law. This is a Canadian problem for Canadians to define. I hope, honourable senators, that the Senate will explore these questions.

We already looked at the question of Article 5 and the UN in a Senate report. What is the legal consequence? It is not the political consequences, not the tea and sympathy. We could all give the Americans tea and sympathy, but that is not the question. The question is this: What are the legal consequences for Canadians under our rule of law?

Honourable senators may recall that the Foreign Affairs Committee tabled a report in April 2000 entitled "The New NATO and the Evolution of Peacekeeping: Implications for Canada." There we looked at Article 5 and the UN charter, and it is imperative that the Senate explore these questions again, in light of these recent events, for consequences that flow for nationals and our nation when their human security is breached in this barbaric way. We must examine anew and quickly what we meant last year, and the year before, by human security. Senator Stewart raised this with Minister Axworthy, and said, "What do you mean by human security?" Members of the Foreign Affairs Committee were there. I want to know what are the legal consequences that flow from the definition of that problem under Canadian domestic law. It is a Canadian problem, and when the Americans define it in their way and we want a made-in-Canada solution for our immigration law, I want a made-in-Canada solution for these barbaric acts that affect our sovereignty. There are many questions, honourable senators, that we must ask and answer for ourselves, and the sooner the better.

Honourable senators, I hope that the Senate will carefully and deliberately weigh and examine all these questions, and that we will come up with answers that are of assistance to cabinet, to Parliament and to the anxious Canadian public. The eyes of Canada have turned to Parliament. They are seeking answers under the rule of law. We have our work cut out for ourselves.

In response to Senator Di Nino, I believe the Senate has constitutional responsibilities to the Canadian public for precisely the issues we have raised and he has raised on this legislation.

• (1710)

As never before in my memory, our economic prosperity depends on our economic security. I am confident that the Senate will draw the line between liberty and security, and draw the exquisite equilibrium for Canadians to live in a free and open society. I urge us to get on with our task.

**Hon. Lowell Murray:** Honourable senators, I have two questions to put to the Honourable Senator Grafstein.

Is the honourable senator satisfied that the government has sufficient power to deal expeditiously and conclusively with people seeking admission to this country whom our police and security services have determined constitute a threat to the security of the country?

The second question is much more general. The honourable senator may want to reflect on it and answer it at another time. He will have noticed that when President Bush spoke about terrorism, terrorists and the need for concerted international action, he spoke of terrorism "with a global reach." It is speculated that the reason he added that qualifier was so that there would be no problems in assembling the coalition.

However, terrorism "with a global reach" presumably excludes a fair number of the terrorists and a fair bit of the terrorism that is at large in the world today in Ireland, the United Kingdom and the Middle East. Does the honourable senator have any comments to make on the qualifier that President Bush added in seeking international action against terrorism?

**Senator Grafstein:** Honourable senators, I do not need President Bush to tell me how to read international terrorism. The threat to Canada was set out by our Canadian Security and Intelligence Service. It is all there. I do not have to have it affirmed yet again by the American President. It is open as part of the public record. It has been on the public record since May 3, 2000. We were warned by our security services about the international problem and the international dimension. It is there; it is within Canada. That is what CSIS says. I do not need the President of the United States to remind me what the deficit was in their security. Let him handle the deficit in his security. There is now some thought about removing the head of the CIA because of the lapse in their security. Let them deal with that under their rule of law. We have our problems under our rule of law.

My immediate response is to say, let us solve our problems under our rule of law. The record is clear. It must be weighed, examined and cross-examined. It appears to be clear.

I talked to Senator Roche just a few minutes ago about the international coalition. Invoking Article 5 gives me great concern. What is the scope of that trigger? We did that by executive approval under the Royal Prerogative. Parliament has not examined this issue.

There is a provision which states that if war is declared, the national defence services must be ignited after 10 days. I do not understand exactly where we are now legally as a result of the executive triggering of that provision, which they did by approving Article 5 on September 13.

On the larger political question of the coalition and its global reach, I think the American President does have a primary responsibility and is prepared to accept it. Just a few moments ago, Senator Roche and I were looking at an article in *The New York Times*. We read that Secretary Powell has said that he intends to lay the case before the public. I think we must wait to hear what the Americans have to say about that. If our government disagrees about that analysis, then let us hear about it. Perhaps we might examine that question as well.

This is not a foreign affairs debate. However, it will be difficult for the United States to gain public acceptance, notwithstanding the UN declaration, which is clear and unequivocal. It would be most difficult, unless there was strong evidence to point the finger in the right direction.

To my mind that is what we are waiting for in the next day or two. I understand it is being presented to the Europeans. I hope it will be presented to Canadians as well so that we can come to some conclusion ourselves as to whether we accept that evidence.

**Senator Murray:** Would the honourable senator address my first question, please?

**Senator Grafstein:** Give me more time to think about it.

**Hon. Douglas Roche:** Senator Grafstein very eloquently brought to our attention his concerns about the obligations of Canada under Article 5. How are we to get at the character and the quality of the response, which may be a military response under the aegis of Bill C-11, which is an immigration bill? I am sitting here as a member of the Standing Senate Committee on Social Affairs, Science and Technology, which I understand will receive this bill. If I were to ask for witnesses to deal with this aspect, it might be pointed out to me that this is not what the bill is doing in approaching the issues of immigration and refugee status in Canada. Therefore, sympathetic as I am to Senator Grafstein's call for an examination of Canada's precise legal situation in supporting NATO, whatever the response will be, I ask him how are we to deal with this question under Bill C-11?



**Senator Robichaud:** Honourable senators, I rise on a point of order.

**The Hon. the Speaker:** I recognize the Honourable Senator Robichaud on a point of order.

**Senator Robichaud:** Honourable senators, when I agreed to consent, it was qualified for the senator to have some time to finish his speech. I would not want to be unfair to a previous speaker who was limited to approximately 10 minutes. Therefore, I urge the honourable senator to conclude his comments so that we may be fair to everyone in this chamber.

**Senator Grafstein:** Honourable senators, I will be brief.

Senator Roche was proper to bring this to my attention. It was not my intention at all to have the Senate committee dealing with the immigration bill to deal with the larger questions I have raised. I am trying to bring the urgency of the matter to the attention of the Senate. I would hope that the Standing Senate Committee on Foreign Affairs, or another committee, will address these issues so that they can be dealt with in parallel by different committees. I did not want to smudge the one with the other, but there is this overhang in the public mind about the two. I think it is important that we address both questions in a parallel way.

**Hon. Terry Stratton:** Honourable senators, I move the adjournment of debate in the name of Senator Beaudoin.

**Senator Robichaud:** Honourable senators, I rise on a point of information. Before the Speaker puts the question on the motion to adjourn debate, which I know is not debatable, it is quite obvious that this bill is drawing a lot of attention. In light of the horrible events of last week, there is a certain priority accorded by our government to this piece of legislation whereby we wish to move it forward without limiting debate in such a way that honourable senators in this house would not be allowed to speak. I would ask the acting deputy leader when we can expect Bill C-11 to be referred to committee and when the speakers on the other side will have had the time to express themselves so that we can commence the very important study of this legislation, as some senators have indicated should be done.

• (1720)

**Senator Stratton:** I very much appreciate my colleague's evaluation of me as acting deputy leader, but I am still a lowly whip.

As my honourable friend knows, we have been discussing this issue all day, or at least from ten o'clock this morning. We will endeavour to do everything possible to conclude what we are talking about here as per the agreement that was struck. I will endeavour to do that and will inform my friend in the morning as to our success. I believe we will conclude our debate. I do not think we can do that tomorrow, but it is our intent to do so by end of the day Thursday. Agreed?

**Senator Robichaud:** Honourable senators —

**The Hon. the Speaker:** A number of senators are rising now. I should have done this at the beginning of the exchange. It is not unusual for us to have an exchange between the house leaders or deputy leaders on the government and opposition side and to allow other senators to put questions to them to clarify, but it should be done with leave. I am asking if leave is granted to continue.

**Hon. Senators:** Agreed.

**Senator Robichaud:** Honourable senators, I should like to believe that the acting deputy leader is saying that we will be in a position this Thursday afternoon to send Bill C-11 to committee. I should like to be relatively confident that we can do that and move it along without having to delay it, and of course without limiting debate.

**Hon. John Lynch-Staunton (Leader of the Opposition):** We have only been here three days.

**Senator Robichaud:** He sort of said, "We will do our best," and I know he always does his best, as does the leader, but I would like assurance that, yes, we can move this bill to committee.

**Senator Stratton:** We are dealing with senators here. They can be a pretty independent lot, as my honourable friend knows. They can take the bit in their teeth and off they go. I have said to the Deputy Leader of the Government privately and I will say to him here that, by midday Thursday, it will be done to the best of my ability. However, I cannot prevent someone from standing up and saying, "I adjourn the debate." I will do my darndest to ensure that this does not happen, but I cannot absolutely guarantee it. I am sorry. That is not the way the world works in this place. Is that as satisfactory as we can get?

**Senator Robichaud:** I am confident that if the acting deputy leader does his best, things will happen in a way such that we can refer this bill to committee.

**Hon. Marcel Prud'homme:** With leave, honourable senators. I think we are having a nice debate. I see how smooth Senator Robichaud can be. There was a significant amount of private consultation with the official opposition. I agree that there is no problem in that respect. We now hear Senator Stratton suddenly say "Thursday." I do not wish to speak for my colleague because he can speak for himself. However, this is the first time I have heard Thursday mentioned. Usually, we cooperate with the government. Senator Stratton may try his best to "deliver" his senators before Thursday. That is something to be debated by the official opposition.

I have been quite interested in this matter, having been Parliamentary Secretary to the Minister of Manpower and Immigration in 1971. Not much has changed. I tell you. What happened to the process of consultation? Are we consulted only when the issue is not an important bill? Are we to be told ahead of time, or do these surprises just arise?



The bill will go to committee, as we have done for Bill C-7. It must go to committee. However, as much as Senator Stratton is a good friend, he is not that sure that he can deliver everyone. To the best of his ability, and to the best of my ability, I should like the bill to proceed to committee so that we may hear the minister and other witnesses. We live in a democratic country, and many witnesses wish to appear on this bill. Many of them were refused in the House of Commons. It is the duty of the Senate to complete the work not done by the House of Commons. This is a major piece of legislation. I know it is important and I know the government wants this bill. However, I would not have hated to be approached. I am not that uncooperative. It is quite a surprise to see this friendly chat between the opposition and the government.

On motion of Senator Stratton, for Senator Beaudoin, debate adjourned.

### CRIMINAL CODE

#### BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Léger, for the second reading of Bill C-24, to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts.

**Hon. James F. Kelleher:** Honourable senators, it gives me great pleasure to rise today to give second reading to Bill C-24, to amend the Criminal Code, specifically addressing the issues of organized crime and law enforcement.

The onus on us as senators as we deal with this bill is particularly heavy given the events of two weeks ago in the United States. While this bill was not written to address the evils of terrorist organizations operating within our borders but to deal primarily with organized gangs and organized crime, we should determine what effect it may have in giving support to law enforcement agencies as they combat all parts of crime planned and organized by groups of people.

I also approach the discussion of this bill not only as a senator but also as a former Solicitor General responsible for police enforcement at the federal level in Canada and as a lawyer who has a healthy respect for the Charter of Rights and Freedoms.

Last week, Senator Moore gave us a fairly thorough review of the contents of Bill C-24. I see no need to repeat that. However, there are some aspects of this bill and the government announcements that surrounded its presentation in the House of Commons and the Senate that I wish to emphasize.

First, I believe it is very important that our Standing Senate Committee on Legal and Constitutional Affairs study this bill thoroughly. This is one of the bills that was rushed through the House of Commons with some enthusiasm from virtually all

sides before the summer break. I, too, applaud many aspects of this bill. I recognize the need to pass legislation to help combat organized crime. However, I do not believe we should act with too much haste. This is a relatively large bill, and we should look at its wording carefully to determine if it really does effectively grapple with the matter of organized crime and does it in a way that we as senators can agree with and support.

This bill has been introduced and presented to us as creating three new offences, all of which relate to participation in a criminal organization. In fairness, Bill C-24 does not so much create three new offences as it clarifies and expands upon an existing offence. Having said that, these improvements are welcomed and long overdue and should greatly assist law enforcement officials in their fight against organized crime.

● (1730)

One of the most controversial aspects of this legislation is that in some instances it creates prosecutorial immunity for the police should they commit a crime while in the course of an investigation. These provisions result from the Supreme Court of Canada decision in *Regina v. Campbell & Shirose*, which declared that the police were not immune from criminal liability for criminal activities committed in the course of an investigation. The court charged us, as parliamentarians, to determine when and for what crimes there should be immunity.

This bill allows police to take reasonable and proportional illegal action when investigating or infiltrating criminal organizations. Before an officer can break the law, authorization from the minister responsible for the police force is required. There are limits expressed in the statute so that there would be no police immunity for intentionally or recklessly causing death or bodily harm, for sexual offences, or for deliberately obstructing the course of justice. Of course, there is the possibility that these clauses could very well become the subject of constitutional challenges once this bill becomes law.

As senators, we can never forget the protections afforded by the Charter of Rights and Freedoms. Thus, we must do our very best to ensure that all clauses in all bills comply with the Charter. Unfortunately, this is not always an easy task. Absent a court challenge, it is not always certain whether a clause will be in compliance with the Charter. Our job is to seek the best balance possible, not to run roughshod over the Charter, but not to run scared of it, either. If, despite our best efforts, a challenge is made before the courts, then we must accept that as a fair and just part of the process.

At this point, what concerns me more than any possible court challenge is the question of who should be authorizing these new police powers — a minister of the Crown or a judge. Some who approve this power being given to the police and who appeared before the Justice and Human Rights Committee in the other place suggested there might be some comfort in having the authorization in the hands of a member of the judiciary, someone who is immune from partisan politics and might be more measured and responsive to such police requests.

I could not agree more. If we are to ensure public confidence in these provisions, we must guard against even the appearance of political influence. I am very surprised that the government does not also see it this way, especially given all the problems arising from the APEC conference. As senators, we have the benefit of reviewing the recently released report of Justice Hughes about that conference. One of the key principles coming from that report is that when police are performing law enforcement functions, they should be entirely independent of the government.

The last matter I wish to touch upon today is one which, as a former Solicitor General, greatly concerns me. When this bill was first introduced, the Minister of Justice announced an additional \$200 million to fight organized crime. If this government can waste hundreds of millions of dollars attempting to register the guns of innocent Canadians and still not get it right, then I have a hard time believing that \$200 million is nearly enough to combat organized crime.

As senators, we must determine how much is really needed to effectively implement this legislation. If the financial resources are not forthcoming, then I question the point of even dealing with this bill.

While on the subject of money and resources, honourable senators, I should mention that I am pleased to see the expanded provisions allowing for greater seizure of assets tied to organized crime. It is time that we went after the rewards of organized crime and reclaimed these resources for the benefit of us all. Ideally, we could use the proceeds of these seizures to add to the resources necessary to effectively fight organized crime.

Honourable senators, Bill C-24 is an important bill, but it does require further study. I know that the committee will do an excellent job and I look forward to its report.

On motion of Senator Joyal, debate adjourned.

[Translation]

## THE SENATE

COMMITTEE OF THE WHOLE—REPLACEMENT OF SEA KING HELICOPTERS—APPEARANCE OF OFFICIALS ON PROCUREMENT PROCESS—DEBATE ADJOURNED

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice on September 19 2001, moved:

That at 3:00 p.m. on Thursday October 4, the Senate resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services for a briefing on the procurement process for maritime helicopters.

He said: Honourable senators, I wish to inform you that discussions are currently underway between both sides of the Chamber in order to come to a date that will work, and I would

not want to leave the independent senators out of these discussions.

We had thought that October 4 might work, but the official opposition informed us of certain concerns they have regarding this date. We are currently in the process of finding a date that would work for the opposition. As soon as such a date is determined, the Senate shall resolve itself into a Committee of the Whole in order to receive officials from the Department of National Defence and the Department of Public Works and Government Services. I will inform senators as to when the Senate will be able to resolve itself into a Committee of the Whole. Honourable senators, I move that this debate be adjourned.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

On motion of Senator Robichaud, debate adjourned.

[English]

## PRIVILEGES, STANDING RULES AND ORDERS

### FOURTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Committee on Privileges, Standing Rules and Orders (name change of the Defence and Security Committee) presented in the Senate on September 19, 2001.—(*Honourable Senator Stratton*).

**Hon. Jack Austin** moved the adoption of the report.

• (1740)

He said: Honourable senators, this report refers to one matter only, and that is the change of the name of the Standing Senate Committee on Defence and Security to the Standing Senate Committee on National Security and Defence. The chair of the committee, Senator Kenny, believes that this title more specifically describes the general ambit of the committee.

I should like to advise colleagues, of course, that this committee, along with the committee created as a companion piece, the Standing Senate Committee on Human Rights, would have as mandates only those matters that are specifically referred to the committees by the Senate. There is no issue here of committee responsibility being reallocated or any other matter, such as funds. Financial matters will be dealt with in the report of the Standing Committee on Internal Economy, Budgets and Administration.

Honourable senators, the only purpose of this item is to change the name to the Standing Senate Committee on National Security and Defence. The matter was discussed at the Privileges, Standing Rules and Orders Committee. It was not the subject of any controversy.



**Hon. Lowell Murray:** Honourable senators, I will not take up much of your time, because I hope and believe that there will be an early opportunity to discuss the more substantive issues involved here.

I do not have an opinion on the change in the name; I have not really thought about it much. However, the Senate created the Standing Committee on National Defence some months ago. In my copy of the rules, there is no mandate set out for that committee as there is a mandate set out for other standing committees. Perhaps I am mistaken in that; however, I cannot find a mandate there.

I recall early in June 2001 a meeting of the Standing Committee on Privileges, Standing Rules and Orders when this matter came up. Senator Kenny, who is chairman of the Defence and Security Committee, told us that the committee would be discussing and dealing with various matters that occurred to me are already within the mandate of other standing committees of the Senate. I believe that creates a problem.

I appreciate what the Honourable Senator Austin has said to the effect that the committee will have no authority to undertake any work except that which is referred to it by the Senate. However, I saw in the Halifax press only a couple of weeks ago that this committee was expecting to travel to Halifax to commence a study of national security matters consequent upon the events of September 11, 2001 in New York.

I put that on the record for the moment. I will not object to the change in name. However, we should have an early opportunity to discuss the more substantive issue as to the mandate of this committee. We should hear from other committees whose mandates would be affected by the intention set out by the chairman of the committee, Senator Kenny.

**Hon. John G. Bryden:** Honourable senators, I, too, have no objection to the name change. However, even though I have read in the press about the committee's intention to travel, I have seen no terms of reference and no mandate from this place.

Is the mandate sufficient to allow the committee to go either in the name of the Senate or on its own accord? Is it doing anything? Does anyone know?

**The Hon. the Speaker:** I would need leave of the Senate for Senator Austin to be given the floor again. I have a speaker. I will go to the speaker, and then I will ask for leave to ask that Senator Austin respond to Senator Bryden's question.

**Hon. J. Michael Forrestall:** If Senator Austin wishes to respond to Senator Bryden, I will defer to him. However, I do have something I wish to say to this question.

**Senator Austin:** I spoke to Senator Kenny because I saw the same news story. I told that honourable senator that the committee did not have a mandate or money, but that it did have initiative. Senator Kenny replied to me, in all seriousness, that the committee was merely looking at what the committee should seek as a mandate from the Senate.

**Senator Forrestall:** I will be somewhat more precise, honourable senators, than the loose cannon that we have heard recoiling and rattling in Senator Bryden.

We are in the process of doing precisely what Senator Kenny indicated in conversations with Senator Austin. We are attempting to determine the scope and nature of this new committee's work as we go into the future. We are quite prepared to consider all of these matters.

In the beginning, the essential consideration with respect to the use of the term "security" was security as it pertained directly or, on occasion, indirectly to the activities of the Canadian Armed Forces and the requirements of Canada's Armed Forces by the Government of Canada and as dictated by other requirements, such as aid and the direction of government itself. When we have completed our first round, which is a familiarization exercise as much as anything else, the question of mandate in future would then be far better discussed than it would be at this point in time.

**Senator Bryden:** We will take one more shot. First, what is the first round? Is it around the country, or is it around a table? Who is financing it? Is each participating senator paying his or her own expenses?

**Senator Forrestall:** Honourable senators, the question is somewhat facetious, and I will not entertain it. This is a serious matter that we have undertaken with the sanction of the Senate as a whole.

This is not a new question. This is not a new subject. It has been before this chamber for a number of years now. Finally, the committee is falling into place. It is timely indeed that there be from this chamber a window to observe and to comment upon from time to time the activities of Canada's Armed Forces and to report to the Senate our considered views on whether any particular undertaking is being carried out in a matter that would satisfy Canadians.

**Hon. A. Raynell Andreychuk:** I, too, wish to make a few comments. I do not enter into the debate of the title, nor as to how the committee is approaching its work. When the two new committees were at the Rules Committee initially, as a member of the Standing Senate Committee on Foreign Affairs, I understood that this new committee would carve out that area that appeared not to be dealt with in the Senate adequately by other committees, be it the Standing Senate Committee on Legal and Constitutional Affairs, the Standing Senate Committee on Foreign Affairs, the Standing Senate Committee on Social Affairs, Science and Technology, or the like. I simply want it noted on the record that as they go for their familiarization the committee be mindful of the existing working mandates of the other committees.

As chair of one of the new committees, I can report that we are doing just that. We are familiarizing ourselves by inviting those in the subject area to come before the committee to tell us what work needs to be done that is not covered by the House of Commons, or by another facility in the community, or by other areas of the government. From that, we will draw our long-term references. We are mindful that we need not, or should not, duplicate other committees or take the mandate away from them.



• (1750)

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Terry Stratton:** Honourable senators, I wish to adjourn the debate because the question about the role and the mandate of this committee must be clearly answered for those who inquired or expressed concern. Several questions were raised on both sides, and so we should have a clear understanding of what that mandate is. Perhaps the chair of the committee would present an explanation here. For that reason, I wish to adjourn the debate.

**The Hon. the Speaker:** Senator Austin wishes to respond.

Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Austin:** Honourable senators, Senator Stratton has heard me say already that the committee has no mandate, so there is nothing to discuss. If he wishes to discuss what its mandate should be, he should wait until the committee comes to the Senate to outline what it is likely to do.

**The Hon. the Speaker:** Perhaps Senator Stratton is satisfied with that answer or perhaps he is not. Does the honourable senator wish to adjourn the debate?

**Senator Stratton:** Yes, Your Honour.

On motion of Senator Stratton, debate adjourned.

#### FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Committee on Privileges, Standing Rules and Orders (name change of the Privileges, Standing Rules and Orders Committee) presented in the Senate on September 19, 2001.—(*Honourable Senator Stratton*).

**Hon. Jack Austin** moved the adoption of the report.

He said: Honourable senators, language usage changes. One of the problems with the change of language use is with the word "privileges." So many comments have been made about what the word "privileges" means. When people are writing, they ask, "What is it; do the senators want free beer? Do they want free lunches? What are the extra privileges that they want?"

Clearly, the word "privileges" is one in its original use that relates to the rights of Parliament and the members of both Houses. This proposal also comes with the approval of the committee to update its name to the Standing Committee on Rules, Procedures and the Rights of Parliament. The phrase "Rights of Parliament" is probably one of the most honoured phrases in constitutional history.

I recommend the modernization of the name of this committee. At a future time, with the consent of other chairs, we may ask for the modernization of other committee names.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

### HISTORICAL IMPORTANCE OF PROCLAIMING FEBRUARY BLACK HISTORY MONTH

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Oliver calling the attention of the Senate to the historical importance to Canadians of February being proclaimed Black History Month.—(*Honourable Senator Kinsella*).

**Hon. Terry Stratton:** Honourable senators, I wish to speak to the inquiry on the celebration of Black History Month.

When I was a child growing up in West Winnipeg after the Second World War, I was familiar with names such as Maloney, Hayes, Allison, Ross, Cleve, MacLean, Erickson and Allenby. There was the occasional Schwartz, Striowski and Klassen, but that was it. We were pretty monochromatic in our neighbourhood.

Two young gentlemen came to us from Germany as displaced persons. They still live and work in Winnipeg. They were wonderful because they set an example. Back in grade 5, we had never experienced someone walking in our door from a foreign land. It helped us, as young kids, to really understand and realize that there were other people from other parts of the world, even though they were monochromatic like we were. We have surely come a long way since then.

When I look at the neighbourhood where I grew up, the cultures and races have changed, and the names have changed dramatically. It is wonderful to see my grandchildren growing up in that same neighbourhood, learning to swim, play and go to school, and accept as a natural occurrence the cross-section of races and cultures. It is just natural to them, and it is wonderful to see.

One must ask what this has to do with Black History Month, particularly in my part of the world, where there were very few.

**The Hon. the Speaker:** Honourable senators, it being six o'clock, I am obliged to rise and draw your attention to that fact. Is it your pleasure not to see the clock?

**Hon. Senators:** Agreed.

**Senator Stratton:** As a result, when you do not see other cultures and races, you do not experience them; but when you do, it is quite a revelation.

There is a wonderful story about Atlantic Canada and what took place during the Civil War and the Underground Railroad that allowed the slaves to move from the Southern States to Atlantic Canada. They now come from all parts of the world.

• (1800)

In Winnipeg, every year we celebrate an event called Folklorama, when we feast on Black food, culture and a richness that we need to celebrate always because they contribute to our society in ways that make us all the better and wealthier for our understanding of cultures and races across the world.

On motion of Senator Stratton, debate adjourned.

## ISSUES IN RURAL CANADA

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to issues surrounding rural Canada.—(*Honourable Senator Andreychuk*).

**Hon. A. Raynell Andreychuk:** Honourable senators, this inquiry has been put forward by me as one of the most important inquiries for not only my area of the country but for others as well. However, in light of the pieces of legislation that both the chamber and I have been involved with recently, and given the events of last month, it would be better that we have a good debate on this issue at a later time. Consequently, at this point in the debate, I am asking for an adjournment.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I thought that this inquiry had already been adjourned by Senator Andreychuk so that she could conclude her comments at a later date, which is today. The honourable senator is asking to adjourn debate again. I have no problem with that. I am wondering, though, what would be the proper way to do this.

**The Hon. the Speaker:** I will answer as best I can. Honourable senators have a 15-minute time allocation on certain types of interventions. I believe this is a 15-minute, not a 45-minute time frame.

I gather that Senator Andreychuk adjourned this matter in her name prior to the expiration of time to complete her remarks, as I believe Senator Robichaud said. I am not aware of any

impediment to doing that more than once, although I could be wrong on that point. I must answer the honourable senator, and I answer him by saying that Senator Andreychuk is simply adjourning debate again in her name in order to complete her remarks. She has a certain amount of time allocated. This does not add to her time, but she will make the balance of her remarks at the next sitting of the Senate. That is the best answer I can give to the Honourable Senator Robichaud.

**Senator Robichaud:** As a point of clarification, does that mean that the clock on this inquiry would go back one?

**The Hon. the Speaker:** The clock does not start at one. The Table times the 15 minutes, or 45 minutes, which it has done in the case of Senator Andreychuk. Apparently, Senator Andreychuk has 14 minutes left.

**Hon. Terry Stratton:** On a point of clarification, I wish to speak to this inquiry as well. Does that start the clock again?

**The Hon. the Speaker:** Senator Andreychuk has the floor and has not completed her remarks in the time allocated to her. She has asked the Senate to adjourn this matter again in her name. She will use up the balance of her time at a later sitting, in fact the next sitting, because that is the only way the motion can be put.

When Senator Andreychuk has completed her remarks, it would be entirely in order for any other senator to rise and speak to the inquiry as well, including Senator Stratton.

Honourable senators, I have misunderstood Senator Robichaud. The question was not how much time the honourable senator has left. The question was this: Does the clock start running on the 14 minutes? My understanding is that, yes, Senator Andreychuk has intervened, spoken and now has another period of time provided for in the rules to stand and speak before the matter drops off the Order Paper.

I now understand better what Senator Stratton was doing. I apologize for trying the patience of honourable senators.

On motion of Senator Andreychuk, debate adjourned.

The Senate adjourned until Wednesday, September 26, 2001, at 1:30 p.m.





# CONTENTS

Tuesday, September 25, 2001

PAGE

PAGE

## SENATORS' STATEMENTS

### Racism Against Muslims as a Result of Terrorist Attacks on United States

Senator LaPierre ..... 1266

### Prince Edward Island

Energy Corporation Wind Farm. Senator Callbeck ..... 1266

### Editorial Comment by Former Journalist Gordon Sinclair in Support of United States

Senator Germain ..... 1266

### Unveiling of Franco-Ontarian Flag

Senator Poulin ..... 1267

### National Defence

Present Location of HMCS Charlottetown. Senator Forrestall ... 1267

### Literacy Awareness Programs

Senator Fairbairn ..... 1268

## ROUTINE PROCEEDINGS

### Official Languages

Annual Report of Commissioner Tabled. .... 1268

### Transport and Communications

Request for Authority to Study Issues Facing Intercity Busing Industry—Report Of Committee Presented.  
Senator Bacon ..... 1268

### Study on Emerging Developments in Russia and Ukraine

Budget—Report of Foreign Affairs Committee Presented.  
Senator Stollery ..... 1269

### Defence and Security

Budget—Report of Committee Presented. Senator Kenny ..... 1269

### Adjournment

Senator Robichaud ..... 1269

### Carriage by Air Act (Bill S-33)

Bill to Amend—First Reading. .... 1269

## QUESTION PERIOD

### The Senate

Absence of Leader of the Government. Senator Robichaud .... 1270

Senator St. Germain ..... 1270

### Delayed Answers to Oral Questions

Senator Robichaud ..... 1270

### National Defence

Replacement of Sea King Helicopters—Sea State Operation and Ditching Requirements.  
Question by Senator Forrestall  
Senator Robichaud (Delayed Answer) ..... 1270

### Fisheries and Oceans

Meeting of State Ministers in Stockholm, Sweden—  
Comments by Minister on Structured Management of Fish Stocks in International Waters.  
Question by Senator Comeau  
Senator Robichaud (Delayed Answer) ..... 1270

## ORDERS OF THE DAY

### Youth Criminal Justice Bill (Bill C-7)

Second Reading. Senator Nolin ..... 1271  
Senator Robichaud ..... 1273  
Senator Bacon ..... 1275  
Senator Joyal ..... 1276  
Senator Chalifoux ..... 1278  
Senator Grafstein ..... 1279  
Senator Adams ..... 1279  
Senator Rompkey ..... 1279  
Senator Cools ..... 1279  
Senator Prud'homme ..... 1280  
Senator Pearson ..... 1281  
Referred to Committee. .... 1283

### Income Tax Conventions Implementation Bill, 2001 (Bill S-31)

Second Reading—Debate Adjourned. Senator Poulin ..... 1283

### Canadian NATO Parliamentary Association

Meeting of Subcommittee on Future Security and Defence Capabilities, May 6 to 11, 2001—Report of Canadian Delegation Tabled. Senator Nolin ..... 1285  
Spring Session of NATO Parliamentary Assembly, May 27 to 31, 2001—Report of Canadian Delegation Tabled.  
Senator Nolin ..... 1285

### Immigration and Refugee Protection Bill (Bill C-11)

Second Reading—Debate Continued. Senator Di Nino ..... 1285  
Senator Grafstein ..... 1289  
Senator Robichaud ..... 1291  
Senator Murray ..... 1292  
Senator Roche ..... 1292  
Senator Stratton ..... 1293  
Senator Lynch-Staunton ..... 1293  
Senator Prud'homme ..... 1293

	PAGE		PAGE
<b>Criminal Code (Bill C-24)</b>		Senator Forrestall .....	1296
Bill to Amend—Second Reading—Debate Continued.		Senator Andreychuk .....	1296
Senator Kelleher .....	1294	Senator Stratton .....	1297
<b>The Senate</b>		Fifth Report of Committee Adopted. Senator Austin .....	1297
Committee of the Whole—Replacement of Sea King Helicopters—		<b>Historical Importance of Proclaiming February</b>	
Appearance of Officials On Procurement Process—		<b>Black History Month</b>	
Debate Adjourned. Senator Robichaud .....	1295	Inquiry—Debate Continued. Senator Stratton .....	1297
<b>Privileges, Standing Rules and Orders</b>		<b>Issues in Rural Canada</b>	
Fourth Report of Committee—Debate Adjourned.		Inquiry—Debate Continued. Senator Andreychuk .....	1298
Senator Austin .....	1295	Senator Robichaud .....	1298
Senator Murray .....	1296	Senator Stratton .....	1298
Senator Bryden .....	1296		



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OFFICIAL REPORT  
(HANSARD)

Wednesday, September 26, 2001

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Wednesday, September 26, 2001

The Senate met at 1:30 p.m., the Speaker in the Chair.

[Translation]

Prayers.

### SENATORS' STATEMENTS

#### THE LATE HONOURABLE GILDAS L. MOLGAT

COMMANDER OF ORDER OF LEOPOLD AWARDED POSTHUMOUSLY

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I am very pleased to rise today to draw your attention to a distinguished award bestowed posthumously upon our former colleague and friend the Honourable Gil Molgat.

[Translation]

Former senator and Speaker of the Senate, the late Honourable Gildas Molgat, was appointed Commander of the Order of Leopold, a civilian distinction, by his Majesty King Albert II, in recognition of services rendered.

[English]

I regret that I was unable to attend yesterday's ceremony at the Belgian embassy, but I know that many of my esteemed colleagues, including officers of the Senate and former employees of the senator, were present, together with Gil's wife, Allison.

I know that Senator Molgat would have been very proud to receive this decoration from the Kingdom of Belgium. Although he received many awards for his service to our Canadian veterans and cadets, and was awarded for his interest in the international community, each and every distinction was special to him and was evidence of his commitment to his fellow human beings.

As a Canadian who had a great deal of respect and admiration for the people of Belgium and for those in other French-speaking communities, Senator Molgat was eminently deserving of this special distinction bestowed by His Majesty King Albert II.

I should like to thank His Majesty and the people of Belgium for recognizing our former colleague with this very great honour.

**Hon. Senators:** Hear, hear!

### TRANSPORT

AIRLINE INDUSTRY—EFFECT OF  
TERRORIST ATTACKS ON UNITED STATES—  
GOVERNMENT SUPPORT

**Hon. Céline Hervieux-Payette:** Honourable senators, I should like to bring to your attention a Canadian problem that affects us all.

Whereas the U.S. government, which is generally disinclined to provide government assistance to the private sector, has provided substantial support to its airline industry; whereas Canadian airlines have been substantially affected by the tragic events in New York and Washington; whereas air transportation in Canada is essential to the population — in remote regions in particular — and to our businesses; and whereas the over 50 per cent reduction in the activities of Canada's airlines is jeopardizing financial stability throughout our economy; therefore, I invite my colleagues in the Senate and in the government to provide assistance similar to the assistance provided by the U.S. government to its industry, both to preserve a Canadian infrastructure and to reassure the public in general and the workers in this industry in particular.

[English]

### POLITICAL REPONSES TO ACTIONS OF PRIME MINISTER REGARDING TERRORIST ATTACKS ON UNITED STATES

**Hon. Laurier L. LaPierre:** Honourable senators, my heart is full of anger, sadness and pain. I intend to be very impertinent and combative, and perhaps even partisan.

My country, Canada, is being pilloried by verbal terrorists who vent their spleens in the pages of our newspapers and on the airways of our country. A regiment of quasi-experts, unknown to anyone, are bent on eradicating the people's confidence in our country.

The institutions or the instruments that guard our national safety and security are being dismissed as insignificant and incapable of doing their task. We lack overseas intelligence and have lamentable military capacity. We are diplomatic lightweights and have no coherent policy to defend ourselves against terrorism. This is a goddamn pack of lies.

The Prime Minister is being assaulted by petty politicians who are determined to make political gains by the plight of our country in the face of our pain, anxiety and stress.

• (1340)

Honourable senators, the Prime Minister is on the right path. He has shown great leadership, which I wish would be followed by the other political leaders in our country. Our people are being



made to feel guilty, or so we are told, for having let our neighbours down on September 11, 2001.

Furthermore, yesterday, in the Senate of the United States, an insignificant functionary of the Government of the United States accused Canada of protecting terrorists and of allowing them to enter the United States to perform their bad deeds. That gentleman is obviously a petty politician who is willing to transfer the inadequacies of the security system of the United States on to the backs of Canadians.

Honourable senators, I shall not allow it. Canadians did not allow the 19 or so terrorists to hijack planes and to fly them to New York. Canadian airports were not used to board those planes. Those terrorists did not live in Canada for months and years undetected, nor did they learn to fly 747s from any of our aviation schools. They were not detected doing so. I do not need to tell senators that a 747 is not a Cessna.

Honourable senators, those acts took place in the United States without any help from Canadians in any way, shape or form. Those who say otherwise are lying to the Canadian people. Our country and our government and our people are not guilty of anything. Our country and our government and our people do not need to tear themselves apart to reassure the Americans. It is up to the Americans, due to the inadequacies of their security system, to reassure us.

Honourable senators, let us put an end to this verbal terrorism, a verbal terrorism accentuated by a colonial frame of mind and a sadomasochistic perversion; let us do what we have to do in good conscience and in accordance with our values; let us do it in the Canadian way; let us remain dedicated to human rights and peace; let us have a clear conscience; and let us be Canadians et Canadiens.

Long live Canada!

#### WOMEN'S CONFERENCE ON REUNIFICATION OF KOREAN PENINSULA AND ISSUES IN ASIA-PACIFIC REGION

**Hon. Lois M. Wilson:** Honourable senators, on Monday of this week, just outside Toronto, I attended the opening day of a week-long conference that brings together women from the Democratic People's Republic of Korea, or the DPRK, China, the Philippines, the U.S.A., Canada and the Christian Conference of Asia. Sponsored by the mainline churches of Canada and the U.S.A., its focus is on the reunification of the Korean Peninsula and matters affecting the peace, security and stability of the Asia-Pacific region.

None of the four women from established organizations in the DPRK had ever been outside the borders of their country before. This initiative, taken by the non-governmental sector of Canadian society, plans to establish a framework for successive exchanges, following Canada's recognition of the DPRK last February. I am confident that their deliberations and the forging of new relationships between these women will contribute significantly to peace and stability in our troubled world.

[ Senator LaPierre ]

## ROUTINE PROCEEDINGS

### STUDY ON STATE OF HEALTH CARE SYSTEM

INTERIM REPORT OF SOCIAL AFFAIRS, SCIENCE AND  
TECHNOLOGY COMMITTEE TABLED

**Hon. Michael Kirby:** Honourable senators, pursuant to the order adopted by the Senate on March 1, 2001, I have the pleasure to inform the Senate that on September 17, 2001, I deposited with the Clerk of the Senate the eighth interim report of the Standing Senate Committee on Social Affairs, Science and Technology entitled "The Health of Canadians — The Federal Role, Volume Four: Issues and Options."

Honourable senators, pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration next Tuesday, October 2, 2001.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report placed on the Orders of the Day for consideration on Tuesday, October 2, 2001.

[Translation]

### ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Thursday, September 27, 2001 at 1:30 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

### ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY  
ISSUES AFFECTING URBAN ABORIGINAL YOUTH

**Hon. Thelma J. Chalifoux:** Honourable senators, I give notice that on Thursday next, September 27, 2001, I will move:

That the Standing Senate Committee on Aboriginal Peoples, pursuant to the input it has received from urban Aboriginal people and organizations, be authorized to examine and report upon issues affecting urban Aboriginal youth in Canada. In particular, the Committee shall be authorized to examine access, provision and delivery of services; policy and jurisdictional issues; employment and

education; access to economic opportunities; youth participation and empowerment; and other related matters;

That the Committee report to the Senate no later than June 28, 2002; and

That the Committee be authorized, notwithstanding customary practice, to table its report to the Clerk of the Senate if the Senate is not sitting, and that a report so tabled be deemed to have been tabled in the Senate.

## QUESTION PERIOD

### NATIONAL DEFENCE

#### PRESENT LOCATION AND ASSIGNMENT OF HMCS CHARLOTTETOWN

**Hon. J. Michael Forrestall:** Honourable senators, I have a question based on an intervention I made during Senators' Statements yesterday.

Did the HMCS *Charlottetown* or any of its sister vessels put to sea last week from the Port of Halifax? Did this particular warship or any other Canadian warship put to sea as part of an American-led coalition of war on terrorism?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for that question. I regret that I did not have the opportunity to read his statement of yesterday because I was travelling most of that time. However, I made an inquiry in respect of the information that was contained in the statement because I was informed that the senator had made such a statement. I am led to believe that it was not part of the war against terrorism effort, as he describes it.

**Senator Forrestall:** Honourable senators, given the position of the United States President and subsequent statements by our own Prime Minister, I am pleased to hear that information.

Is that warship travelling with the USS *Theodore Roosevelt* carrier battle group, and, if so, for what purposes? Does it intend to join up with that particular battle carrier group on whatever mission that may be tasked to that group?

• (1350)

**Senator Carstairs:** Honourable senators, I do not have any more information than that which I provided to you a few minutes ago. I will make additional inquiries and report back that information through a delayed answer.

**Senator Forrestall:** The honourable senator will understand my concern in that this is the last chance I will have to ask questions for a while. If the *Charlottetown* or any other Canadian vessel is at sea, for what purpose is it at sea at this time? Is it taking part in joint exercises? Where is it? When is it expected

back in port? Are the families aware of the location and return date of the members of crews on board any Canadian war ship that may be out of port on duty?

**Senator Carstairs:** Honourable senators, I would not have nearly as much fun in Question Period if Senator Forrestall were not on the other side asking questions. Inevitably they send me rapidly to the briefing books since I am not as current as the honourable senator at all times, particularly with respect to the Armed Forces of this country.

I do not know why the HMCS *Charlottetown* is on the waters at this time, and I cannot give the Honourable Senator Forrestall any information with respect to the knowledge that family members have. However, I assume that if they were in a state of naval exercise to do with the events of September 11, the families would have been informed.

### CITIZENSHIP AND IMMIGRATION

#### COMMENTS BY MINISTER REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, my question is based on a troubling statement made yesterday by the Minister of Citizenship and Immigration, to the effect that parts of Bill C-11, which is before us now, are being implemented. We all appreciate that since September 11, to put it in simple terms, we are living in a different world. However, the rule of law must still have some place in that new world.

The minister, to quote from an interview yesterday, said, "We have operationalized the policy which was approved by cabinet. Bill C-11." This bill is before us. It has yet to receive Royal Assent, and I can think of no precedent whereby a bill, yet to be given Royal Assent, has had clauses implemented in advance for whatever reason. Even in a state of war, the government followed the proper procedure. Even during the October Crisis of 1970, proper procedures were followed.

Now Parliament and the Crown are being told: A bill before you, whether or not you pass it or amend it, is being implemented, in part or in total, in the way the government wishes.

**Senator Di Nino:** The media told us.

**Senator Lynch-Staunton:** We are told through the media.

Under normal circumstances I would raise this as a question of privilege, and I reserve the right to do so. Due to the circumstances, I would like an explanation from the government as to this most irregular, if not illegal procedure, that the Minister of Citizenship and Immigration is sanctioning.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank Senator Lynch-Staunton for his question because it is of importance, particularly to this chamber when we have that very bill before us at this time.



Honourable senators, I have made inquiries. I was informed that the minister is implementing two operational measures. They are independent of Bill C-11. She has presently, as the Minister of Citizenship and Immigration, the statutory authority to implement them.

The first of those two measures allows for front-end screening of refugee claimants. This does not require new legislation.

The second measure is to speed up the process for the introduction of the new permanent resident card. This format is not prescribed in the bill.

## FOREIGN AFFAIRS

### TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PEOPLE OF AFGHANISTAN—AID BY NONGOVERNMENTAL ORGANIZATIONS

**Hon. Consiglio Di Nino:** Honourable senators, last week I asked the government to what extent they would support non-governmental organizations and agencies attempting to deliver humanitarian assistance to the Afghan people. To her credit, the government leader expressed great concern and compassion for the victims of the Taliban government but was not sure what our government would do to help NGOs such as Canada Care, Médecins Sans Frontières, and the Red Cross.

Her exact words were:

I do not know what role the NGOs will be playing in this area, but I will raise with the minister the honourable senator's concern and express his view that NGOs should be participating in this and that they will require some help to do so.

I thank her for that.

Honourable senators, my question is in three parts. First, has the minister raised this issue with the appropriate ministers? If so, what were those ministers' responses? Has the government made a decision on this matter?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I can assure Senator Di Nino that the questions that he raised last week were in fact brought to the attention of the responsible minister. I find it interesting that a similar question was put in the other place yesterday. It came from a very different perspective than that which the honourable senator has taken today. It reflects his understanding of true humanitarian issues. I mean that very seriously, Senator Di Nino.

The \$1 million that has been put on the table for the purposes of funding refugees that are presently at the Afghan-Pakistani border will be given out primarily through NGOs. Those monies will go directly to the people and not to the Taliban government.

**Senator Di Nino:** Honourable senators, I have a supplementary question. As I said last time, I was very pleased to hear that our colleague was prepared with a good answer. The \$1 million is a great help, but I hope that the Government of

Canada will consider raising that contribution. In this entire tragedy, that will not be a great deal of money.

### STATE OF SANCTIONS AGAINST INDIA AND PAKISTAN

**Hon. Consiglio Di Nino:** I have a supplementary question dealing with the same general area. After India and Pakistan detonated nuclear bombs in 1998, sanctions were imposed by our government on both countries. A recent report noted that those sanctions had been lifted.

Could the Leader of the Government in the Senate confirm whether those sanctions have been lifted? If they have been lifted, were the sanctions lifted for both countries or one?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the position of the government is that it is open to further recognition of the need of the refugees at the border. The \$1 million was the first step. It may well need to be followed by additional steps.

In terms of the sanctions, as the honourable senator may remember, the Government of Canada raised those sanctions against India sometime last spring. To my knowledge, they are still in place for Pakistan.

The Americans have reduced their sanctions toward Pakistan in light of some commitments the Pakistani government has now given to the United States. To my understanding, they are still in force and effect in Canada.

**Senator Di Nino:** If there is a different answer, I appreciate that the leader may not have it at this moment. Would she inform us if they have been lifted or will be lifted?

**Senator Carstairs:** If they will be lifted, I will so inform the Senate.

## CITIZENSHIP AND IMMIGRATION

### COMMENTS BY MINISTER REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I have a supplementary to my original question.

• (1400)

I should like to read to the minister and the chamber the exchange that took place between the Minister of Citizenship and Immigration and the reporters. There is an admission in this exchange of violating parliamentary privilege by imposing certain rules that have yet to be approved.

**REPORTER:** Canada's immigration law....recently received Cabinet approval but it's still before the Senate.

**CAPLAN:** the measures outlined in that bill need to be implemented now.”

**CAPLAN:** We have operationalized the policy, which was approved by Cabinet, Bill C-11.



UNIDENTIFIED (Reporter): Even though you do not have a law in place?

CAPLAN: That's correct.

UNIDENTIFIED: So isn't that..., I mean if there's..., isn't there a legal...,

CAPLAN: You think that's a bad idea?

UNIDENTIFIED: No, I'm asking you, isn't there a legal...,

CAPLAN: I'm doing it.

The Minister of the Crown has admitted that she is implementing certain procedures that have yet to be approved by Parliament. No matter how trivial they may be, it is a violation of the privilege of Parliament and of the Crown, which is part of Parliament. It is not just the Senate. The House of Commons, the Senate and the Crown have been completely dismissed. It makes one wonder why we even bother to debate Bill C-11 if the government has decided unilaterally to invoke parts of it. For whatever reason, whatever the emergency, when the rule of law is violated, the whole democratic system is severely challenged.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, in my response to the honourable senator a few minutes ago, I indicated that the two measures being implemented are within the present statutory authority of the minister. She is not going beyond the statutory authority. She does not need Bill C-11 to do the things that she is implementing at the present time.

However, the Leader of the Opposition raises a very critical question, and I will continue to seek answers from the government.

## FINANCE

### EFFECT OF DEVALUATION OF DOLLAR

**Hon. Gerry St. Germain:** Honourable senators, my question is directed to the Leader of the Government in the Senate. The leader will recall that I asked her a similar question before we adjourned the house, a question relating to the devaluation of the Canadian dollar and the acquisition of the energy industry by foreign investors. I am sure the minister is aware of the huge acquisition made in Calgary not that long ago.

In the last few days, Westcoast Energy, the last prominent head office left in Vancouver, was sold to foreign investors predicated on the fact that our dollar is basically worth about half of that of the foreign group that purchased the company. Future predictions are that the Canadian dollar will devalue further. The Liberal government has taken a position that a devalued dollar, in the words of the Prime Minister, is basically a good dollar. Does the government continue with this policy?

I can assure honourable senators that a horrific situation is taking place in our energy sector. Others in the energy sector are very concerned about the foreign acquisition of this sector. Can

the minister give us any indication as to how the government will deal with this matter or if the government will deal with it at all?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the honourable senator knows, there are essentially two views on the value of the Canadian dollar. There are those who like the Canadian dollar at its present position. There are some who would like it slightly higher than it is. There are others who wish to go back to the 1950s and 1960s when the Canadian dollar was worth more than the American dollar.

The government and the previous government and the previous government to that have always maintained that it is economically wise to let the dollar float. The dollar floats at what the international markets will bear. In view of other world currencies, the Canadian currency has done very well, although there is no question that the American currency has been the dominant world currency.

The sale of Westcoast Energy disturbs many Canadians, but I would also suggest that when we owned a Canadian company for the purpose of oil and gas production in this country, that ownership was not met with much favour by the honourable gentleman on the other side.

**Senator St. Germain:** Honourable senators, there is no question that the National Energy Policy is not something we would want re-enacted in the West. Believe me. Having said that, I do not believe we should compare ourselves with the rest; we should compare ourselves with the best. It is a question of productivity and competitiveness, and the honourable minister knows this. I am not telling her something she does not know. The time has come to compare ourselves with the best. If the best is the United States of America, that is who we should compare ourselves to — not the rest of the world — to find justification in our lack of productivity and competitiveness.

Future predictions are for a further devaluation of our dollar. I am asking the minister if the government is taking a position different from the past position. She talked about the previous administration, the Mulroney administration, which set interest rates at a level that kept the dollar at least at a reasonable level. Given the predictions as a result of the horrific disaster of September 11, is any action being considered in regard to the Canadian dollar?

**Senator Carstairs:** Honourable senators, interest rates in Canada are the lowest that they have been in a very long time. Those interest rates have very much matched the setting of interest rates in the United States. If the honourable senator wants to talk about separating us from the rest and the best, I think Canada is the best and has been for a very long time.

## THE ECONOMY

### EFFECT OF TERRORIST ATTACKS ON UNITED STATES

**Hon. Terry Stratton:** Honourable senators, my question is addressed to the Leader of the Government in the Senate. I want to go back to the questions raised last week with respect to the effects of the events of September 11 on our economy.

In talking to businessmen late last week and early this week and asking their opinions as to where they feel the economy is headed, the picture they paint is not very rosy. As a matter of fact, the conclusion they come to is that the economy has virtually dropped off the table. That is the best description I can give it.

As if a light switch were thrown, people have gone into a bunker mentality. In other words, individual Canadians have decided that they will hunker down. As an example, air travel is down 60 per cent. People are putting off purchases they had planned to make.

Honourable senators, this issue is of concern because nothing seems to be happening, other than a state-of-the-nation address by the Prime Minister to a Liberal fundraising dinner that should have been made to Parliament.

On September 21, in the *Report on Business* that appears in *The Globe and Mail*, a photograph shows the Chairman of the Federal Reserve of the United States appearing before the U.S. Senate Committee on Banking on September 20. That has not occurred here. When will our chair report to our Parliament?

• (1410)

Honourable senators, the other issue is that, on Friday, the Dow recorded its worst week since 1933. There has been a recovery since then, but the outlook is not good. According to businessmen, there are enough orders in the pipeline to sustain us through the last quarter on a falling rate. Their private forecast for 2002 is that we are off the table. That is a rather dramatic forecast coming from businessmen.

Honourable senators, we need to hear from the Governor of the Bank of Canada, we need to hear from the Minister of Finance, and do you not think we should start to hear from leading Canadian businessmen as well? Do you not think that the Prime Minister should be out there talking to those leading Canadian businessmen to instill a certain level of confidence in this economy?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, there were many parts to the honourable senator's question. In his doom-and-gloom scenario — and I think that is all we can call it — I would suggest that consumer confidence is frequently based on what members of governments and members of the business community have to say. This is a cyclical matter — one must consider whether consumer confidence goes down first, or whether the gloom-and-doom scenario of the politicians and the country's business people goes down first, which will then lead to a down surge in the expectations of consumers. We must be careful.

The Minister of Finance is doing what he always does, which is to go out and consult with members of the business community. His economic update, which is forecast for soon after we come back from our Thanksgiving weekend, will in fact give us an economic update; it will inform us as to the best advice that the Minister of Finance is receiving. However, we should also look to members of our business community because some of them are also making some statements. They are indicating that their forecasts are down from the economic

growth they thought would happen, to now the economic growth — and I underline “growth” — that they think will happen. There is still growth in the Canadian economy, a fact that we must bear in mind.

I would suggest to the honourable senator that as a result of the events of September 11, there is a fear factor about air travel that has not been there before. One can only hope that as conditions normalize fear will dissipate and people will be willing to travel, not only for business but, more important, that families of this nation will be willing to put their young children on aircraft.

**Senator Stratton:** Honourable senators, my concern is that, by the time the government reacts to a situation like this, a mindset will have developed among Canadians to hunker down, that Canadians will have developed a bunker mentality, that they will have stopped making purchases, will have shut off doing anything to keep this economy going. That is, I am afraid, what has already happened, and nothing has taken place to slow that down and to reassure Canadians that it is okay to go out and buy that car or get that mortgage. Canadians have stopped doing so, and that is a concern. By the time the Finance Minister comes forward to reassure Canadians, I am afraid the mindset will already be entrenched. That is a concern that I believe should be taken to the leadership.

**Senator Carstairs:** Honourable senators, the honourable senator must understand that his evidence is almost entirely anecdotal. The studies we have and the forecasts that have been made do not indicate that the economy is in the kind of trouble that the honourable senator would indicate. No one is stating that there has not been a downturn in the Canadian economy. Yes, there has been. There has been an even greater downturn in the American economy. Mayor Giuliani, in his eloquent statement the other day, told people, “Please come back to the city. Stay in our hotel rooms, and spend your money in this great city of New York.”

Honourable senators, that is tough for people to do under the present circumstances. I think everyone's confidence has been shattered. That is perfectly reasonable after what we watched happen in the United States on September 11. That will be part of the economic update, the confidence rebuilding process that we will hear from the Finance Minister. I would suggest, however, as we are doing with every other aspect of government policy, that we should move forward carefully and confidently but that we should also move forward with calm.

## FOREIGN AFFAIRS

### CHANGES TO REGULATIONS ON RELATIONS WITH AFGHANISTAN

**Hon. David Tkachuk:** Honourable senators, last February 22, the cabinet approved changes to what is known as the United Nations-Afghanistan Regulations. These regulations made it illegal for Canadians to have any financial dealings with Osama bin Laden and his associates, or any entity controlled by him or his associates. This includes financial services. The ban was specific in identifying Osama bin Laden by name. The regulations were gazetted on March 14 and retroactive to February 22.



Could the government leader advise the Senate as to why the Government of Canada waited until last week to ask Canada's financial institutions to look for accounts belonging to Mr. bin Laden and his associates, given that the regulation was passed in February?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is my understanding that they did not wait until then, that the information was requested as soon as the proper gazetted period had been fulfilled but that, in light of the events of September 11, an extra plea was raised last Friday to look even more carefully than they had been looking.

**Senator Tkachuk:** Honourable senators, could the Leader of the Government in the Senate advise the Senate as to exactly what steps were taken by the government, not now but last spring, to ensure that Canada's financial institutions were aware of the regulations banning dealings with Mr. bin Laden, and that they were not only in a position to comply with them but were in fact doing so?

**Senator Carstairs:** Honourable senators, I clearly do not have that information at my fingertips today, but I will send the information requested by the honourable senator through the proper channels and hope to get it back to him as soon as possible.

**Senator Tkachuk:** What steps were taken to inform the business community of these same regulations?

**Senator Carstairs:** Honourable senators, I think that is all part of the original question. I will combine it with the original question and get the answer back in one delayed answer.

**The Hon. the Speaker:** Honourable senators, I regret to advise that the time allocated to Question Period has expired.

**Senator Prud'homme:** The minister was not here yesterday.

[Translation]

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of a delegation of members of the legal and constitutional committee of the Senate of the Czech Republic. On behalf of all the senators, I welcome you to the Senate of Canada.

[English]

Honourable senators, I wish to draw attention as well to the presence in the gallery of participants from the United Kingdom, Wales and Northern Ireland to the Canadian Parliamentary Cooperation Seminar.

On behalf of all senators, I welcome you to the Senate of Canada.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Before proceeding to Orders of the Day, honourable senators, I should like to take this opportunity to

introduce to you the pages who will be working in the Senate this year. I will do it over the course of the next few sittings.

I introduce Melanie Bratkoski, from Regina, Saskatchewan. This is her second year as a Senate page and she now assumes the role of Chief Page. Melanie is studying Canadian studies.

**Hon. Senators:** Hear, hear!

• (1420)

**The Hon. the Speaker:** Next in the gallery is Melanie Ching. Melanie is from Darlingford, a small farming village in southern Manitoba. She is studying political science, with a concentration on Canadian studies, at the University of Ottawa.

**Hon. Senators:** Hear, hear!

[Translation]

**The Hon. the Speaker:** Patricia Lapointe comes from Sainte-Anne-des-Plaines in the Quebec Laurentians. She is a student at the University of Ottawa specializing in communications with a major in geography. Patricia is in her second year of the Senate pages program.

**Hon. Senators:** Hear, hear!

[English]

**The Hon. the Speaker:** Alexa Reynolds is from North Vancouver, B.C. Alexa is currently studying history and global studies at the University of Ottawa. This is her first year in the Senate page program.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Jonathan Shanks was born in Fredericton, New Brunswick. He is an honours history student in his third year. This is his first year as a page in the Senate.

**Hon. Senators:** Hear, hear!

[Translation]

**The Hon. the Speaker:** Abdullah Afzal was born in Kabul, Afghanistan. He is studying political science at the University of Ottawa. This is his first year as a page in the Senate.

**Hon. Senators:** Hear, hear!

[English]

**The Hon. the Speaker:** Also in the gallery is Alicia Tumchewics. Alicia was born and raised in Yellowknife, Northwest Territories. She is currently pursuing a degree in second language at the University of Ottawa. This is her first year as a Senate page.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker:** Next I wish to introduce Emma Orawiec. Emma is from Aylmer, Quebec. She is working on a minor in international development studies at Carleton University. This is her first year as a page in the Senate.

**Hon. Senators:** Hear, hear!



[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this house the delayed answers to two questions: the question raised by Senator Tkachuk on May 31, 2001, on the acquisition of maritime helicopters and the question raised by Senator Stratton on June 13, 2001, concerning the Access to Information Review Task Force.

### NATIONAL DEFENCE

#### REPLACEMENT OF SEA KING HELICOPTERS—CHANGES TO BASIC VEHICLE REQUIREMENTS

*(Response to question raised by Hon. David Tkachuk on May 31, 2001)*

The Maritime Helicopter will have a more extensive and advanced suite of mission equipment than the current Sea King.

The current Sea King, with the full mission system on board, can carry a crew of 4 people and 3 passengers (for a total of 7 people). With the removal of some of the mission equipment, the current Sea King can be adapted to carry a crew of 4 people and 7 passengers (for a total of 11 people).

The Maritime Helicopter requirement calls for a helicopter that can carry the full suite of mission equipment, a crew of 4 people and a stretcher with 2 attendant personnel (for a total of 6 to 7 people). With the removal of some of the mission equipment, the Maritime Helicopter will be required to be able to carry a crew of 4 and 6 passengers (for a total of 10 people).

### TREASURY BOARD AND JUSTICE

#### MEMBERSHIP OF ACCESS TO INFORMATION REVIEW TASK FORCE

*(Response to question raised by Hon. Terry Stratton on June 13, 2001)*

Members of the Access to Information Review Task Force are all public servants who have been drawn from several federal departments and agencies. They were selected because of their expertise in the area of access to information and/or for their legal, policy and research backgrounds.

The current members of the Task Force are: Andr  e Delagr  ve, Chair; Mary Anne Stevens, Director; Louis Alberti, Legal Counsel; David Dunbar, Senior Legal Counsel; Shauneen Furlong, Senior Policy Officer; Marta Khan, Senior Policy Officer; Valerie Lasher, Senior Policy Officer; John McCarthy, Special Advisor; Eric Miller, Senior Policy Officer; Sherry Moran, Special Advisor;

Bruce Walton, Senior Policy Officer, and Stephen Bindman, Special Advisor (part-time). Biographies are available on the Task Force web site at <http://www.atirtf-geai.gc.ca/> in the "About Us" section.

[English]

### POINT OF ORDER

**Hon. Terry Stratton:** Honourable senators, I rise on a point of order. I do not normally do this, but an event occurred at the beginning of today's session where offensive language was used. As honourable senators know, that kind of language cannot be used in this chamber. While the individual who expressed his concerns did so as a new senator, perhaps he should take note that that language is simply not used in this chamber.

**The Hon. the Speaker:** Do any other senators wish to comment on the honourable senator's point of order?

**Hon. Anne C. Cools:** Honourable senators, Senator Stratton spoke so briefly that perhaps the majority of us were unable to grasp the totality or complexity of the situation. I wonder if we could prevail upon the honourable senator to expand on the matter.

**Senator Stratton:** Honourable senators, I have made my point to the individual. I have repeated the content of what I said to him. Honourable senators who may not have been in the chamber may read what was said in the *Debates of the Senate*. I believe that is sufficient at this stage.

**The Hon. the Speaker:** Honourable senators, this is a serious matter. I should like to have an opportunity to review the record. I will rule on the point of order at the next sitting, if at all possible.

[Translation]

### ORDERS OF THE DAY

#### IMMIGRATION AND REFUGEE PROTECTION BILL

##### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Morin, for the second reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

**Hon. G  rald-A. Beaudoin:** Honourable senators, I wish to say a few words on Bill C-11.

[English]

Bill C-11 replaces the existing Immigration Act, providing clearer modern legislation to ensure that Canada's immigration and refugee protection system is able to respond to new challenges and opportunities. Bill C-11 contains inadmissibility

provisions for criminals, persons who constitute security threats, violators of human rights and persons who should not be allowed into Canada because of fraud, misrepresentation, financial reasons or health concerns.

Bill C-11 deals with the right to enter and remain in Canada, the rights and obligations of permanent and temporary residents, detention and release, right of appeal, judicial review and refugee protection.

Immigration is a subject of great importance.

[Translation]

As regards the sharing of responsibilities, immigration is a shared jurisdiction, although primarily a federal one under section 95 of the Constitution Act, 1867. Clauses 7 to 10 of Bill C-11 deal precisely with intergovernmental agreements and they stress the importance and the need to consult with the provinces on immigration matters.

A brief look at the jurisprudence of the Supreme Court shows that immigration matters raise constitutional issues.

[English]

This is why it would be logical, in my opinion, to refer Bill C-11 to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

In *Chiarelli*, the court dealt with the compatibility of the legislation providing for the deportation of a permanent resident and section 7 of the Charter.

Chiarelli was found guilty of a crime for which the sentence is imprisonment for a period in excess of five years. In such a case, section 27(1)(d)(iii) of the Immigration Act, 1976, provides for the deportation of a permanent resident, in compliance with certain procedures. Chiarelli challenged both the legislation as such and the procedures.

• (1430)

Mr. Justice Sopinka, who wrote the unanimous decision of the court, pointed out that immigration law provides that permanent residents do not have an absolute right to enter or to remain in Canada, unlike Canadian citizens. This distinction is in fact recognized under section 6 of the Canadian Charter of Rights and Freedoms.

[English]

The Parliament of Canada has the power to establish a legislative regime related to permanent residents. This one is legitimate and not arbitrary, according to Mr. Justice Sopinka.

Justice Sopinka is also of the opinion that a mandatory order of deportation, when a permanent resident has voluntarily omitted to comply with an essential condition for staying in Canada, does not violate the principles of fundamental justice.

[Translation]

In *Dehghani*, the Supreme Court ruled that the requirements of fundamental justice do not include the right to counsel during a routine customs examination.

Dehghani claimed refugee status. He claimed, first, that his right to counsel had been violated and, second, that his residual protection under section 7 entitled him to such a right in the absence of "detention" or "arrest."

Mr. Justice Iacobucci wrote that the residual protection conferred by section 7 of the Charter includes the right to counsel in circumstances not covered by paragraph 10(b) of the Charter. In effect, it is possible that the right to counsel could be claimed outside the context of an arrest or detention, for example, during an investigation or a hearing.

In both these cases, *Chiarelli* and *Dehghani*, the Government of Canada was successful. I refer to them merely to illustrate the fact that the Immigration Act has repercussions for Canadian constitutional law.

In light of the events that took place in New York and Washington on September 11 of this year, I have no trouble agreeing that the security of our borders has become an urgent matter which we must address without delay.

Honourable senators, in light of the foregoing, I suggest that Bill C-11, a very important bill, be referred to the Standing Senate Committee on Legal and Constitutional Affairs.

On motion of Senator Andreychuk, debate adjourned.

MOTION TO ALLOT TIME ADOPTED

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, following discussions with the leader of the opposition and the independent senators, I move:

That, pursuant to rule 38, in relation to Bill C-11, An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger, no later than 3:30 p.m. Thursday, September 27, 2001, any proceedings before the Senate shall be interrupted and all questions necessary to dispose of second reading of the bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions be not further deferred;

That, if a standing vote is requested, the bells to call in the senators be sounded for 30 minutes, so that the vote takes place at 4:00 p.m.; and

That the committee to which Bill C-11 is referred have power to sit for the purpose of the study of the said bill, at any time when the Senate may be sitting, and that rule 95(4) be suspended in relation thereto.



**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## CRIMINAL CODE

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Moore, seconded by the Honourable Senator Léger, for the second reading of Bill C-24, to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts.

**Hon. Serge Joyal:** Honourable senators, I will try to be brief in my comments regarding Bill C-24.

[English]

This bill is entitled, in part: "An Act to amend the Criminal Code (organized crime and law enforcement)..."

As honourable senators will certainly remember, this bill has a particular significance in many large cities of Canada, in particular in Montreal.

[Translation]

Honourable senators, you may recall that the events of the past few years, in particular the bloody conflict involving two rival biker gangs, have cost several lives and caused considerable damage to private property.

In view of the representations made by police forces, which were ill-equipped to deal with this crisis, the Minister of Justice decided to strengthen certain provisions of the Criminal Code. This relatively important bill sets out all of the additional powers that would be given to police forces to fight organized crime in an effective manner.

[English]

I have absolutely no quarrel with that objective. I do not think we can live in a civilized and democratic society if law and order does not prevail. My major concern is related to proposed section 25, which deals with the capacity given to police forces to commit crimes in the course of their investigations. This is very serious.

It is one of the first times a statute of Canada would allow police forces to commit a crime in the course of an investigation, that is, either to go beyond the prescription of the Criminal Code or against the prescription of a federal statute.

• (1440)

One of the only times that has been accepted is with wiretapping. Many of us might remember the discussion in Parliament when we amended and tried to strengthen the judicial control over wiretapping because wiretapping is seen as an intrusion against section 8 of the Charter of Rights and Freedoms. Section 8 states:

Everyone has the right to be secure against unreasonable search or seizure.

In addition, section 9 of the Charter reads:

Everyone has the right not to be arbitrarily detained or imprisoned.

The legal rights are contained in the Charter. In other words, living in a democratic society, we must be sure that when there is an intrusion of privacy by police who want to wiretap a conversation, the police must first obtain authorization, and that authorization is not easy to get. That authorization must be in the form of writing, signed by the Attorney General or the Solicitor General, depending on the province. It must be accompanied by an affidavit, and it must be given by a judge. It must be given for specific conditions, for a specific inquiry and for a specific period of time. In other words, there is a legal control over the decision of a policeman to wiretap a conversation because each and every one of us has a right to privacy.

This issue of allowing police to commit crimes in the course of an investigation is a very serious issue. There are those of us who remember the investigation of the RCMP — and I see our colleague Senator Bacon, who was at the time a member of the Quebec cabinet — will remember the McDonald commission. The McDonald commission investigated the conduct of the RCMP during the investigation that preceded the fight against FLQ terrorist groups. The report of the McDonald commission, the Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police in 1981, contained a list of the crimes that the RCMP was accused of having performed in the course of its investigation against the terrorist groups. What were those crimes? I will read them quickly.

[Translation]

Electronic surveillance, surreptitious entry for the purpose of installing a listening device, mail check operations, the use of confidential information held by federal organizations and departments, publishing false news releases, the burning of a barn in Sainte-Anne-de-la-Rochelle, the removal of dynamite.

[English]

Honourable senators, this bill, through proposed section 25, would make those crimes, in certain circumstances, crimes no longer. In other words, if I am wiretapped, the police will have to seek written authorization with an affidavit, see a judge and get the authorization of the judge for a limited period of time.



However, if the police decide to burn down my shed in the country because, without my knowledge, it is used by a group for secret meetings to plan a bank robbery — nothing to do with organized crime, as such, or the kind of crime that we are concerned with primarily in this bill — what would be the procedure? I would look to proposed section 25 of the bill because that shed is mine and I have a right to property. We know that the right to property is not protected by the Charter. Of course, our colleague Senator Beaudoin always comments on that. We all know — and I see Senator Murray across the floor — that we wanted to put property rights in the Charter in 1980. One of the main reasons was that property rights were the jurisdiction of the provinces under section 92 of the Constitution Act, 1867. We did not want to enter the area of trying to limit the right to property. However, in the very example I just gave to honourable senators, I have a right to property.

I looked to proposed section 25 of the bill to see the kind of system that would protect my rights and protect the fundamental principle of the rule of law. Senator Lynch-Staunton, in his first question today, alluded to the rule of law. What is the rule of law? The rule of law is essentially the absence of arbitrary power in the hands of the authorities, be it the police, the government or the judicial authorities. What is the common understanding of the rule of law? Everyone is entitled to the benefit of the law, and the law should be applied equally to everyone.

Honourable senators, that is the fundamental principle of our democratic society, which has been repeated in many instances by the Supreme Court of Canada. It was stated very clearly in the 1974 *Lavell* case. It was repeated by the Supreme Court in a very famous case that we have all read and debated in this chamber, the *Reference re Secession of Quebec* in 1998. Paragraph 70 of that decision states:

The principles of constitutionalism and the rule of law lie at the root of our system of government. The rule of law as observed in *Roncarelli v. Duplessis*...is “a fundamental postulate of our constitutional structure.”

It continues:

It provides a shield for individuals from arbitrary state action.

Subsection (2) of proposed section 25 of Bill C-24 states the importance of the rule of law. It says:

[Translation]

It is in the public interest to ensure that public officers may effectively carry out their law enforcement duties in accordance with the rule of law and, to that end, to expressly recognize in law a justification for public officers and other persons acting at their direction to commit acts or omissions that would otherwise constitute offences.

[English]

In other words, the bill states that the rule of law is fundamental, but the bill continues to allow a breach of the rule

of law. What system, included in the bill to protect the individual, is the object of the breach of the rule of law?

I read the following subsection of proposed section 25 and came to the conclusion that the bill, as presently written, does not contain a protection parallel to the one that we have with respect to wiretapping. The wiretapping protection is easy to understand. It is in the hands of a judge. On the basis of an affidavit, an outside authority has the capacity to review whether the wiretapping is abusive or whether it is the easiest route in an investigation. Before we allow an intrusion into someone's privacy, we want to ensure that it is not done as a fishing expedition.

With regard to proposed section 25, I tried to understand who was the external authority controlling the authorization given to a person. The proposed section goes as far as referring to a person committing a crime, not a police officer, but a person who may act under a police officer's instruction. It goes very far. It means that a person who is asked by the police to do something illegal should know reasonably that whatever that might be is needed in the course of the investigation. This is the authority given to that person to commit the crime or offence.

• (1450)

Proposed section 25 does not provide for an external control vis-à-vis police forces. Yesterday, Senator Kelleher stated that there should be a similar or an analogue system to our wiretapping system. I am told that judges do not want to be told that there will be a crime committed that they will bless, because, of course, it is important to maintain and protect the credibility of the law and order system.

I tried to understand, from the viewpoint of the mother of Parliament, our counterpart in Britain, what system is followed there. They are governed by the Police Act 1997. The system in Britain is pretty clear. Chapter 50, section 91, of that act allows for a chief commissioner to be appointed outside the police system to review authorizations given to police to commit offences or initiatives that in other instances would be seen as criminal. That chief commissioner has the responsibility to implement a code of practice. No one can decide to do whatever he or she wants in the course of an investigation and just come with the result. The chief commissioner can hear appeals and may order compensation. Again, if my shed is burned down by the police, who will compensate me? Will my insurance pay if the police deliberately burn down my shed? The Police Act 1997 allows for such compensation.

The bill before us has no such compensation. There is simply an obligation to inform the person, in the year after, that the police have done something that was not legitimate.

In section 105 of Britain's Police Act 1997, the chief commissioner must report to the Prime Minister and the Prime Minister must report to Parliament in a succinct and appropriate way. Those investigations cannot reveal all the elements of an investigation, for very valid reasons, but there is still a whole system of controls over the initiatives taken by police. Parliament has a capacity and, singularly, our chamber, through our security committee, to review that report. That is, among other reasons, why we have a Defence and Security Committee — to protect, in the proper way, the secrecy of investigations.

Honourable senators, Bill C-24 is even more important today in light of the events of past weeks because it gives the police special powers to fight organized crime. Also, it gives those powers to the police to fight any kind of crime. I am not opposed to the police having some special capacity to fight at par with the forces of crime, but the rule of law applies to the police as it applies to everyone. That is the essential principle of the credibility of our system.

[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, I regret to have to interrupt Senator Joyal, but his speaking time is up.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, how much longer does Senator Joyal require to finish his remarks?

**Senator Joyal:** Two minutes.

**The Hon. the Speaker *pro tempore*:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

[English]

**Senator Joyal:** Honourable senators, the Supreme Court of Canada, in many judgments, has recognized and stated that the rule of law applies to public officers. No public officer is above the law. No public officer can claim that, by his or her very status, he or she is in a different class than average citizens before the law.

This has been restated in many cases — for example, *Lavell* and, in 1999, in *Campbell*, which was referenced by the Honourable Senator Kelleher. That is a known principle of the Criminal Code for many of us.

These days, as we discuss the reliability of our legal and police systems in Canada, it helps us to remember this quote of Benjamin Franklin. Of course, you know the importance of Benjamin Franklin in defining the American system. He wrote, in 1759, “They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.”

**The Hon. the Speaker *pro tempore*:** If no other senator wishes to speak, I will put the question.

It was moved by the Honourable Senator Moore, seconded by the Honourable Senator Léger, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Moore, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[ Senator Joyal ]

[Translation]

## BROADCASTING ACT

BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED

**Hon. Jean-Robert Gauthier** moved the second reading of Bill S-29, to amend the Broadcasting Act (review of decisions).

He said: Honourable senators, this bill is a close relative of Bill S-7, introduced by Senator Finestone and passed last spring. The two are similar, but they differ somewhat in that Senator Finestone's bill, which was passed by the Senate and is now with the House of Commons, amended sections 9 and 10 of the Broadcasting Act, while Bill S-29 addresses section 31. They are not the same thing, although of course they involve the same overall question, that is, the powers of the CRTC. The similarity stops there, however. Bill S-7 concerns the powers of the CRTC to award costs when there are proceedings, whereas Bill S-29 deals with its internal review process. These are two distinct entities.

The CRTC administers two pieces of legislation, the Broadcasting Act and the Telecommunications Act.

• (1500)

Under the terms of both acts, the commission makes decisions, and I underscore “decisions.” However, under the terms of both laws, the commission has very different powers to revise its own decisions. The difference, apparently, between the legislative regimes lies in the fact that, in the past, the various means of communication — radio, television, newspapers, telecommunications — each had their own distinct characteristics. They required different equipment and separate businesses to provide service to consumers. Accordingly, the government treated them differently.

All that changed with the development of the Internet, the information highway. All these various forms of media are now called, commonly, convergent. Consumers can now surf the Internet, listen to the radio, watch television and answer the phone all by means of a single machine they probably have in their home, their personal computer. This is possible today.

Although the Canadians enjoying these services fully are in the minority, the development of convergence is perfectly clear and will be a matter of course for everyone.

Today, we must recognize that all the media are and will soon become different forms of the same medium — namely, electronic communication. This is why we must begin to harmonize and streamline our legislative approach to electronic communications and eliminate the obstacles separating them at the moment. These obstacles no longer serve any real purpose, except to create undue advantages for some. Let me explain. The major players have money to protect their interests. The small players, with fewer means, sometimes have difficulty. The CRTC relies on interveners to award a license to an organization. It also has to make decisions on broadcasting that are different from those in telecommunications.



As the distinctions between the various forms of communications media disappear, the threat of a monopoly or an oligopoly increases.

By establishing a unified, harmonized and rational approach to electronic communications, we will enable the small players to penetrate the communications market. At some point, this will put an end to domination by the major broadcasting interests.

Up to now, the major broadcasters have been able to use their enormous resources to control the direction of broadcasting policy in this country. One of the groups that has suffered from this state of affairs is francophones outside Quebec. This is only one of the groups — there are of course many others, which time precludes my enumerating. I will list them in committee. They have a message to give.

A new set of rules, based on the reality and on the inescapable nature of technological convergence, will allow all these groups to have a public presence and a strong voice in their communities and well beyond their communities.

Bill S-7, which was sponsored by Senator Finestone, was passed by the Senate on June 7, 2001. It was read for the first time in the House of Commons on September 19, 2001. It would allow the CRTC to award costs in broadcasting decisions, in the same way that the CRTC currently has the power to award costs in telecommunications decisions. You can see the difference. The awarding of costs will enable consumers, public interest groups and individuals to conduct in-depth research and collect substantive evidence to clearly represent the public interest in broadcasting and cable television issues.

Why am I taking an interest in this issue? I will be forthright. It has cost me time and money to learn. You may remember TFO's application to the CRTC. The CRTC was asked to require cable companies in Quebec to provide, on an optional basis, TFO's signal in Quebec. It was perfectly justified to allow francophones in this country to speak to each other from province to province. The CRTC said no, that this was not in the public interest. That was the reason invoked by the CRTC. We tried to enlist the help of cabinet. We were told that cabinet could do something about a legal or jurisdictional matter. Was this the case? I said that it was a legal issue, that I was not a lawyer, but that I wanted to use some sections, including section 41 of the Official Languages Act. In my opinion, this section is binding. If we use section 41, since the CRTC is a federal body, it would be forced to help the country's linguistic minorities thrive, develop and promote their identity. I was told that this section was not strong enough, since the Minister of Justice said that section 41 was declaratory. So, the government's position is that section 41 is declaratory.

I asked questions about this decision. I was told to raise them with the Federal Court. So I did. I hired a lawyer. I waited five or six months before being told that the court could not hear us. The case was left pending with no reason given. I said that I wanted someone to listen to me and they said that it was unfortunate, but

that they were not interested. I then went to the Supreme Court with the same lawyer and the same arguments and got the same results. After six months, I was told: "Listen, we cannot hear your case." I was again upset. I returned to the political arena, to the Senate, to try to convince my colleagues in this chamber to pass a bill that would give the CRTC the authority to review its decisions, to take a second look, to perhaps hear convincing arguments so as to resolve the issue in the fairest manner.

This is the reason I became involved with Bill S-29: to find a way of allowing the CRTC to change its mind. It may do so with respect to telecommunications. Why not with respect to broadcasting? In today's world, where convergence is the order of the day, this would strike me as entirely logical.

• (1510)

Bill S-29 represents another important step in the disappearance of the artificial and pointless distinctions which continue to exist between telecommunication and broadcasting policies.

Bill S-29 would allow the commission, on request or on its own initiative, to review, rescind or vary any of its decisions, or rehear any matter before rendering a decision. The CRTC will thus have the same powers as it has under the Telecommunications Act. Just as the CRTC has broad discretionary power to review its decisions under the Telecommunications Act, it should have the authority to review its broadcasting decisions. It does not take a rocket scientist to figure this out.

If the CRTC is to play an important role in modern communications, it will have to be given greater authority and flexibility to set broadcasting policy. In certain cases, the commission might have to review its earlier decisions, or rehear a matter before rendering a decision. Similarly, it should have the power to review the conditions of existing licences, if circumstances so require. We know, and the CRTC knows, of course, that amending the conditions of an existing licence can have a very significant impact on a broadcasting undertaking; that is why this is not a power which would be exercised without serious and extensive prior consideration.

You may say that the CRTC can review its policy and decisions at any time. Is that not sufficient power? I would answer no.

The commission has two distinct functions. First, it has the power to set broadcasting policy and make regulations; this applies to the whole industry. Second, it can make decisions regarding licensing, which only have an effect on an individual broadcaster subject to the conditions of licence who may, someday, wish to be granted a licence.

First, the commission develops policy. Then, it acts in a quasi-judicial manner by making decisions based on established criteria, decisions that have an effect on the rights and responsibilities of those concerned.



Under the Broadcasting Act, the conditions of licence may not be appealed. This is something that I have experienced. They may only be subject to judicial review by the Federal Court of Appeal, only on a question of law or a question of jurisdiction, and only with leave of the court. If the court does not wish to hear your case, you are out of luck.

Cabinet review is subject to strict rules under the terms of section 28. The Governor in Council may, on the Governor in Council's own motion, or on petition in writing, set aside a decision or refer it to the commission for review, if the Governor in Council is satisfied that the decision derogates from the attainment of the objectives of the broadcasting policy set out in the Act.

It is worth pointing out that even the review by cabinet is not absolute. It may examine the decision to award, modify or renew a licence but it may neither revoke nor suspend a licence.

For the CRTC to be taken seriously as the authority governing Canadian broadcasting, it should have real authority over setting policy in this industry. In certain cases, the CRTC would need to review its decisions and hold a new hearing before reaching a decision. Similarly, it should have the authority to review the conditions of existing licences — and even to revoke them if circumstances require, after serious and profound reflection.

[English]

In conclusion, honourable senators, Bill S-29 is a legislative measure that seeks to establish a level playing field between both the Telecommunications Act and the Broadcasting Act. This bill seeks to establish fair access for individuals and small broadcasters as well as for the large enterprises.

The large enterprises have the money and resources, legal and otherwise, to present and defend their case. The small broadcaster should have equal access. If Bill S-7 is approved, as I hope it will be, then the small broadcaster will have access to funds for expenses occurred in preparing a case.

Currently, the CRTC cannot do its own research. It relies on information from interveners to determine what decisions will be taken regarding the Broadcasting Act.

There were more than 1,550 interveners in the case of TFO. Only 11 of the interveners were against the proposal to allow TFO to go into Quebec. Of all the interveners, 99.3 per cent were in favour of the proposal, yet the CRTC decided that it was not in the national interest.

Honourable senators, I hope that this bill is approved in this house and the other place in order that we may have equity in broadcasting.

On motion of Senator Robichaud, for Senator Finestone, debate adjourned.

[Translation]

## TRANSPORT AND COMMUNICATIONS

### AUTHORITY TO STUDY ISSUES FACING INTERCITY BUSING INDUSTRY— REPORT ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Committee on Transport and Communications (*study on the intercity busing industry*) presented in the Senate on September 25, 2001.—(Honourable Senator Bacon).

**Hon. Lise Bacon:** Honourable senators, I move adoption of the report.

In the recent study in the Senate of Bill S-3, to amend the Motor Vehicle Transport Act, the economic regulation of intercity busses was extended.

The bill as passed included clauses that enabled the provinces, through powers delegated to them by the federal government, to continue to set tariffs and conditions for the entry of extra-provincial bus services as they see fit, and as was done for trucking more than ten years ago.

Of all the long-distance transportation services in Canada, whether for passengers or freight, bus transportation is the only one where the federal government still has some influence on fares.

• (1520)

On June 6, the Minister of Transport made a presentation on the bus industry to the Standing Senate Committee on Transport and Communications. On this occasion he asked us to look at the public policy issues relating to the busing industry that would contribute to the prosperity, efficiency and competitiveness of that industry, and to report on the strategic issues affecting the busing industry.

In Canada, the number of intercity bus users is constantly declining. In 1970, intercity buses transported 46 million people, compared to 30 million in 1981. In 1987, airlines in Canada transported as many passengers as buses did, but now the number of air passengers stands at 25 million, compared to 11 million for intercity bus passengers.

Railway transportation, a mode that is used relatively little, has some 4 million passengers annually. Most intercity travel is done by car.

The committee examined the minister's request and it is asking for the adoption of its fifth report, which will give it the order of reference that it needs to undertake this mandate. The committee is asking for authorization to examine the strategic issues affecting the intercity busing industry. It is also recommending that its final report be tabled no later than December 20, 2002; that, notwithstanding the usual rules, it be allowed to table any report to the Clerk of the Senate even if the Senate is not sitting at the time, and that the report be deemed to have been tabled in the Senate Chamber. I therefore move adoption of the report.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

[English]

**POLITICAL REPONSES TO ACTIONS OF  
PRIME MINISTER REGARDING TERRORIST  
ATTACKS ON UNITED STATES**

**POINT OF ORDER**

**The Hon. the Speaker:** Honourable senators, before proceeding to Inquiries, Senator LaPierre has requested leave to speak to his earlier statement. I am recognizing Senator LaPierre.

**Hon. Laurier L. LaPierre:** Honourable senators, I wish to remove the word "God" from my statement earlier today. It is my understanding that it offended certain members of the house.

**The Hon. the Speaker:** Honourable senators, we have a request from Senator LaPierre to remove the word "God" from his statement earlier, which prompted a point of order. Is it your pleasure, honourable senators, to delete the word?

**Hon. Senators:** Agreed.

The Senate adjourned until Thursday, September 27, 2001, at 1:30 p.m.

# CONTENTS

Wednesday, September 26, 2001

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>		<b>Finance</b>	
<b>The Late Honourable Gildas L. Molgat</b>		Effect of Devaluation of Dollar. Senator St. Germain . . . . . 1303	
Commander of Order of Leopold Awarded Posthumously.		Senator Carstairs . . . . . 1303	
Senator Carstairs . . . . .	1299	<b>The Economy</b>	
<b>Transport</b>		Effect of Terrorist Attacks on United States. Senator Stratton . . . 1303	
Airline Industry—Effect of Terrorist Attacks on United States—		Senator Carstairs . . . . . 1304	
Government Support. Senator Hervieux-Payette . . . . .	1299	<b>Foreign Affairs</b>	
<b>Political Responses to Actions of Prime Minister Regarding</b>		Changes to Regulations on Relations with Afghanistan.	
<b>Terrorist Attacks on United States</b>		Senator Tkachuk . . . . . 1304	
Senator LaPierre . . . . .	1299	Senator Carstairs . . . . . 1305	
<b>Women's Conference on Reunification of Korean Peninsula and</b>		<b>Visitors in the Gallery</b>	
<b>Issues in Asia-Pacific Region</b>		The Hon. the Speaker . . . . . 1305	
Senator Wilson . . . . .	1300	<b>Delayed Answers to Oral Questions</b>	
		Senator Robichaud . . . . . 1306	
<b>ROUTINE PROCEEDINGS</b>		<b>National Defence</b>	
<b>Study on State of Health Care System</b>		Replacement of Sea King Helicopters—Changes to Basic	
Interim Report of Social Affairs, Science and Technology		Vehicle Requirements.	
Committee Tabled. Senator Kirby . . . . .	1300	Question by Senator Tkachuk.	
<b>Adjournment</b>		Senator Robichaud (Delayed Answer) . . . . . 1306	
Senator Robichaud . . . . .	1300	<b>Treasury Board and Justice</b>	
<b>Aboriginal Peoples</b>		Membership of Access to Information Review Task Force.	
Notice of Motion to Authorize Committee to Study Issues		Question by Senator Stratton.	
Affecting Urban Aboriginal Youth. Senator Chalifoux . . . . .	1300	Senator Robichaud (Delayed Answer) . . . . . 1306	
		<b>Point of Order</b>	
<b>QUESTION PERIOD</b>		Senator Stratton . . . . . 1306	
<b>National Defence</b>		Senator Cools . . . . . 1306	
Present Location and Assignment of HMCS Charlottetown.		The Hon. the Speaker . . . . . 1306	
Senator Forrestall . . . . .	1301	<b>ORDERS OF THE DAY</b>	
Senator Carstairs . . . . .	1301	<b>Immigration and Refugee Protection Bill (Bill C-11)</b>	
<b>Citizenship and Immigration</b>		Second Reading—Debate Continued. Senator Beaudoin . . . . . 1306	
Comments by Minister Regarding Immigration and Refugee		Motion to Allot Time Adopted. Senator Robichaud . . . . . 1307	
Protection Bill. Senator Lynch-Staunton . . . . .	1301	<b>Criminal Code (Bill C-24)</b>	
Senator Carstairs . . . . .	1301	Bill to Amend—Second Reading. Senator Joyal . . . . . 1308	
<b>Foreign Affairs</b>		Senator Robichaud . . . . . 1310	
Terrorist Attacks on United States—Effect on People of		Referred to Committee. . . . . 1310	
Afghanistan—Aid by Nongovernmental Organizations.		<b>Broadcasting Act (Bill S-29)</b>	
Senator Di Nino . . . . .	1302	Bill to Amend—Second Reading—Debate Adjourned.	
Senator Carstairs . . . . .	1302	Senator Gauthier . . . . . 1310	
State of Sanctions Against India and Pakistan. Senator Di Nino .	1302	<b>Transport and Communications</b>	
Senator Carstairs . . . . .	1302	Authority to Study Issues Facing Intercity Busing Industry—	
<b>Citizenship and Immigration</b>		Report Adopted. Senator Bacon . . . . . 1312	
Comments by Minister Regarding Immigration and Refugee		<b>Political Responses to Actions of Prime Minister Regarding</b>	
Protection Bill. Senator Lynch-Staunton . . . . .	1302	<b>Terrorist Attacks on United States</b>	
Senator Carstairs . . . . .	1303	Point of Order. Senator LaPierre . . . . . 1313	
		The Hon. the Speaker . . . . . 1313	







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OFFICIAL REPORT  
(HANSARD)

Thursday, September 27, 2001

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THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*





## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Thursday, September 27, 2001

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### QUESTION OF PRIVILEGE

COMMENTS BY MINISTER OF CITIZENSHIP AND  
IMMIGRATION—NOTICE

**The Hon. The Speaker *pro tempore*:** Honourable senators, pursuant to rule 43(3) of the *Rules of the Senate*, the Clerk of the Senate received earlier today notice of a question of privilege from Senator Lynch-Staunton. In accordance with rule 43(7), I will now recognize the Honourable Senator Lynch-Staunton.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I rise to speak to the notice that was delivered to the Clerk of the Senate earlier today. This matter concerns actions taken and statements made by the Minister of Citizenship and Immigration in relation to Bill C-11, now before us, being an act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or endangered.

This matter relates to a question I asked the Leader of the Government in the Senate yesterday, while preserving my right to raise such matter as a question of privilege, should the facts unfold to justify such an action on my part. I should add that the statements of the minister were only brought to my notice yesterday at 11:15; therefore, the earliest opportunity I have under our rules to bring this question of privilege, to the attention of the chamber is today.

Briefly, the Minister of Immigration, after repeatedly telling members in the other place that she could do nothing to change how Canada dealt with immigrants and refugees until Bill C-11 was passed into law, stated unequivocally in an interview with the CBC broadcast yesterday, September 26, that:

...I've given the order to do in-depth security screening of all claimants at our ports of entry. That has begun, we haven't waited for Bill 11...

As well, she has authorized the printing and issuance of new permanent resident cards.

She was asked if these actions had been taken "Even though you do not have a law in place?" Her answer: "That's correct." She was then asked: "...isn't there a legal...", and her reply was, "I'm doing it."

Clearly, honourable senators, this is an action in contempt of Parliament and a breach of the privileges of all senators, as it

anticipates the passage by the Senate and Royal Assent being given to Bill C-11 while it is only at second reading before us. Ministers of the Crown cannot act without parliamentary authority. They are not above the law.

At the appropriate time, honourable senators, I will move that the Senate refer this matter to the Standing Committee on Privileges, Standing Rules and Orders.

[Translation]

#### WORLD HEART DAY

**Hon. Yves Morin:** Honourable senators, on Sunday, September 30, 2001, people around the world will mark World Heart Day. In Canada, the Canadian Cardiovascular Society and the Heart and Stroke Foundation are organizing the event. This foundation groups together more than 250,000 Canadian volunteers, and does remarkable work in the fight against this terrible disease, cardiovascular disease. To recognize the fact that cardiovascular disease is the leading cause of death among Canadians, an event will take place.

[English]

On Sunday, in more than 50 locations in Canada, these organizations will hold a mother-daughter walk.

[Translation]

I encourage my female colleagues in the Senate to participate in this event with their daughters.

[English]

Canada has become a world leader in cardiovascular research thanks to the partnership of many players, the most important being the Heart and Stroke Foundation, with \$40 million a year in support of stroke and heart research, and the newly established Institute of Circulatory and Respiratory Health of CIHR.

The new scientific director of this institute, Dr. Bruce McManus, a world-renowned pathologist from Vancouver, has recently announced a very important research program in relation with gene-environment interaction in circulatory and respiratory disease. This strategic initiative will bring our country to the forefront of post-genomic medicine, which in the future will radically transform our methods of preventing, diagnosing and treating heart disease.

[Translation]

Honourable senators, on the occasion of World Heart Day, we can be proud of the role that our organizations, and the volunteers that are part of them, our researchers and our health care professionals have played in the fight against the number one enemy in the field of health: cardiovascular disease.



[English]

### FIFTIETH ANNIVERSARY OF STRATFORD FESTIVAL

**Hon. Laurier L. LaPierre:** Honourable senators, I rise today because my heart is full of good news and great joy of a cultural nature. Culture is, after all, the soul of a nation, and its cultural events are its heartbeat.

Last Tuesday evening, her Excellency the Governor General of Canada gave a reception in honour of the fiftieth anniversary the Stratford Festival in the presence of stars of the festival and its brilliant artistic director, Mr. Richard Monette.

• (1340)

Begun 50 years ago in a tent in a little town in Ontario, the Stratford Festival has become the most important theatrical event in Canada and one of the prime theatrical festivals in the world.

If I may be permitted to circumvent the rules once again, I would say that this fiftieth anniversary could not have taken place without the dedication, the encouragement and the contribution of Senator Meighen and members of his family. Canada owes them a large debt of gratitude because we are able to celebrate this fiftieth anniversary.

On the same day as we were celebrating this important milestone — and there are many more of these milestones coming up — the Governor General's Performing Arts Awards were announced. What a rostrum of great artists: the maestro Mario Bernardi, the divine Diane Dufresne, the elegant Evelyn Hart of the Royal Winnipeg Ballet, the filmmaker Anne-Claire Poirier, the consummate actor Christopher Plummer, and the incomparable Max Ferguson, who for 51 years has illuminated the "radioscape" of our country.

Furthermore, this week the Minister of Canadian Heritage attended meetings of the International Network on Cultural Policy in Lucerne, Switzerland. This important international organization, which she founded, composed of some 45 countries, is devoted to the maintenance of cultural diversity and cultural sovereignty in a world of globalization and the imperatives of free trade. The network needs the support of all senators and all Canadians, for it is a most important cultural instrument.

Today, honourable senators, marks the opening of the most eclectic and interesting film festival in our country. I speak, of course, of the festival taking place in the most magnificent city of Canada, Vancouver, in the most glorious province of Canada, British Columbia. The Vancouver International Film Festival will showcase, among other great films, the largest number of Canadian films ever presented in a film festival in our country or in the world.

Honourable senators should view Canadian films and Canadian programs on television as often as they can because it will do wonders for their intellectual and emotional well-being.

The great Pierre Berton has published his forty-seventh book, *Marching as to War*. In an interview I had with him last Saturday

at the National Arts Centre, he mentioned that Canada would never become the fifty-first state of the United States as long as Canadian culture was vibrant and played a great part in our national life.

**The Hon. the Speaker *pro tempore*:** I regret to interrupt the Honourable Senator LaPierre, but his allotted time has expired.

[Translation]

### POLICE AND PEACE OFFICERS' NATIONAL MEMORIAL DAY CEREMONY

**Hon. Lucie Pépin:** Honourable senators, next Sunday, right here on Parliament Hill, will be held the twenty-fourth annual memorial service for the police and peace officers who have lost their lives in the line of duty. This ceremony, organized jointly by the Canadian Police Association, the Canadian Association of Chiefs of Police and the Canadian Peace Officers' Memorial Association, will mark Police and Peace Officers' National Memorial Day.

We can never repeat too often that, if Canadians live in good communities, this is in large part thanks to the devoted and remarkable work of these police and peace officers. They spare no effort to prevent crime and track those who commit it, for our safety and security.

Today, I wish to pay particular tribute to the police men and women and peace officers who have lost their lives in the performance of their duties. I also wish to express my esteem and solidarity to the families of these valiant citizens torn away from them while protecting the people of Canada. I take this opportunity as well to salute all the self-sacrificing family members and friends who daily share the concerns that go with work as a police or peace officer.

This year, particular respects will be paid to the memory of nine police officers and peace officers killed in the line of duty this past year. John Graham, Jurgen Seewald, Deidre Dunsford, Johnny Petropoulos, Alain Matte, Alain Forget, Edwin Mobley, Timothy Nicholson and Noel Sadé, we will never forget you.

[English]

### ROUTINE PROCEEDINGS

#### STUDY ON ECONOMIC DEVELOPMENT OF NATIONAL PARKS IN NORTH

REPORT OF ABORIGINAL PEOPLES COMMITTEE TABLED

**Hon. Thelma J. Chalifoux:** Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on Aboriginal Peoples, which deals with aboriginal economic development and northern national parks.

I ask that the report be placed on the Orders of the Day for Consideration at the next sitting of the Senate.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Chalifoux, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## QUESTION PERIOD

### CITIZENSHIP AND IMMIGRATION

#### COMMENTS BY MINISTER REGARDING IMMIGRATION AND REFUGEE PROTECTION BILL

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Senator Lynch-Staunton raised some extremely important issues yesterday in Question Period with respect to our rights as parliamentarians, in particular the duties and responsibilities of senators to be able to review legislation before the government takes action on that legislation.

I contacted the Minister of Citizenship and Immigration last evening. She expressed to me her concern that media comments had not accurately reflected her wishes.

I have a letter from the honourable minister in which she states:

As you know, Bill C-11 provides us with the legislative tools to simplify and streamline decisions as to whether a person is eligible to make a refugee claim at the Immigration and Refugee Board (IRB). Sections 100(1) and 101(1) provide that eligibility shall be determined in three days and that persons found to be inadmissible on the grounds of security, violating human rights, serious criminality and organized crime will be ineligible to claim refugee status at the IRB. In addition, sections 103(1) and 104(2) provide that a claim can be suspended and terminated if such information comes to light later in the process. While the current law provides similar grounds to bar access to the system, it requires additional steps that can pose significant delays in the final determination of eligibility.

In light of the recent terrorist attacks in the United States, I have issued instructions to intensify screening of all arrivals at our ports of entry, including persons claiming refugee status. This is a purely operational matter, which requires no new legislative authority, as per sections 19, 20 and 46.01 of the current Immigration Act. Persons found to be security threats through this intensified screening process will be dealt with under the current rules.

I regret any confusion that media reports of my comments may have created with respect to current legislative authorities and the new provisions of Bill C-11. Let me take this opportunity once again to wish you and your colleagues well in your study of this important legislation.

Sincerely,

Elinor Caplan

## TERRORISM

### INITIATIVES TO GUARD AGAINST ATTACKS

**Hon. Gerald J. Comeau:** Honourable senators, my question is directed to the Leader of the Government in the Senate.

Having witnessed the recent terrible events of September 11, 2001, and knowing that they came without warning; and given that the intent of the bin Laden-led terrorist organization is to kill rather than to bring people to his cause; and given that we could be next and that our critical infrastructure, including the Port of Halifax, the Welland Canal and the Parliament Buildings of Canada, amongst others, are vulnerable to such attacks; and given that the taxpayers have paid to set up an office for the protection of critical infrastructure — I want to ask the Leader of the Government in the Senate this question: What steps is this government taking to protect our critical infrastructure from terrorism?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for his timely and important question.

• (1350)

Immediately upon the scenes that we all viewed on September 11, processes went into place to ensure that there would be adequate safety precautions. The honourable senator has identified several of the issues. Certainly, our nuclear plants were one of the issues considered to be at high risk and therefore requiring security of a very high level. So, too, were the ports, canals and pipelines. All of these measures were put immediately into place and they are still in place.

**Senator Comeau:** Honourable senators, I am pleased that the minister can respond in so timely a fashion on this subject.

My second question, which is just as important, is that a great number of Canadians have not felt that they have been given the kind of assurances to relieve their tensions and worries. They see the House of Commons dealing with bills on the Canada Oceans Act, Nunavut waterways, et cetera, all of which are important but not quite as critical as the need for reaction to the terrorist acts that happened on September 11. Many Canadians are watching the government to get some assurance that our critical infrastructure will be protected and that our financial centres, ports, et cetera, are protected.

When can we expect some kind of a concerted effort by ministers of departments to give the reassurance that we are not in a "don't-worry-be-happy" mode, as has been the case to date, and that we are in fact in a mode that will respond quickly and forcefully to any acts of terrorism in Canada?



**Senator Carstairs:** Honourable senators, contrary to what the honourable senator has said, the ministers have been quite forthright. We have had statements, day after day, by the Solicitor General and the ministers responsible for Foreign Affairs, Justice, and Customs. There has been debate to elicit the views of parliamentarians, such as was held here last week and the day before in the House of Commons.

Much of this work, of course, can be done in committees of the House of Commons. I regret to say that committees are not fully operational in the other place at the present time. This is so because, according to my information, the honourable senator's party has not submitted a list of new members.

**Senator Comeau:** Honourable senators, that is a crock, to suggest that the Prime Minister cannot set up the parliamentary committees without having the Progressive Conservative-DRC Party, or whatever they call themselves now, submit a list of members. The Leader of the Government knows perfectly well that the business of Parliament does not rest on having the Progressive Conservative Party or DRC submit its list of members. The leader knows perfectly well that the key committees of transport and finance, and a number of others, have not been struck because the Prime Minister does not want to raise this issue to a higher level. The Leader of the Government is using this piece of crock with regard to submitting a list of members as an excuse. I think the minister should apologize to all Canadians for propagating this kind of excuse.

**Senator Carstairs:** Honourable senators, the Standing Orders of the House of Commons are clear. They require that within 10 sitting days after the House resumes after Labour Day the procedure committee shall prepare and table new membership lists for committees. It is impossible for them to be prepared if they do not have the lists from the parties.

I can imagine the outrage in this chamber if I were to change a Standing Order of this chamber without having it approved by this chamber. I suggest we would also want to respect the Standing Orders of that chamber.

## TRANSPORT

### AIRPORT SECURITY—REQUEST FOR UPGRADED TRAINING

**Hon. Consiglio Di Nino:** Honourable senators, let us start talking some sense and stop playing politics.

**Some Hon. Senators:** Oh, oh!

**Senator Di Nino:** My question to the Leader of the Government in the Senate relates to an article in *The Globe and Mail* this morning dealing with the apparent desire by security people at airports for additional opportunities to further enhance their abilities. *The Globe and Mail* suggests that the airport security groups have not been able to get their officials to give them this additional training.

My question to the Leader of the Government in the Senate is this: What has the Government of Canada done to deal with this issue?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the honourable senator I am sure is aware, the training of security officials at airports at the present time is under the purview of the airport authorities. There has been, certainly, some serious questioning of whether that process should continue; whether in fact the security people at airports should have some form of independent agency. However, no decisions have been made at this time as to whether that is the direction in which we will go in the future.

**Senator Di Nino:** Honourable senators, the events of September 11 in the U.S. must surely have heightened the awareness of all of us as to the safety concerns of Canadians. The Government of Canada could use its full power, or at least its persuasive power, to get this issue dealt with immediately, including, if necessary, revoking the authority of the different airport authorities and transferring it either to other agencies or directly to the federal government. Is the safety of Canadians not the first and most important thing with which we should be concerned, instead of bureaucracies?

**Senator Carstairs:** Honourable senators, safety is clearly of paramount importance. That is exactly why some things have changed. If one boards a flight today, one will discover that it is no longer possible to carry on things one could carry on normally as luggage without any comment or question whatever. Penknives are an example.

I went through security on Monday afternoon. I was asked to turn on my cellphone, which I had turned off because I knew I could not have it on in the aircraft. They wanted to know if it worked. I was asked to turn on my Palm Pilot because they wanted to know if it was a genuine Palm Pilot and not something else pretending to be a Palm Pilot. My luggage was inspected as. I can assure the honourable senator, it was never inspected before. I personally was delighted it was inspected at that level, as was every other bag that came along after mine.

I think all of those precautions have been as a direct result of September 11 and orders issued by Minister Collenette as the Minister of Transport, that those new directions must be followed.

**Senator Di Nino:** Honourable senators, what we are talking about here is a group of people at the front line of this task, which is as difficult and thankless a task as exists.

• (1400)

They are saying that they are not properly trained, that they want help in order to do their jobs well. Certainly this government can respond more quickly than it has to help these folks to do their jobs properly. I am sure the minister would agree with me.

**Senator Carstairs:** Honourable senators, it has been made clear to airport authorities that they must ensure that their people are adequately trained. We have seen some evidence of that training in the more intensive scrutiny that all of our baggage is receiving.



#### HOURS OF WORK REGULATIONS FOR LONG-DISTANCE TRUCKING

**Hon. Norman K. Atkins:** Honourable senators, my question is for the Leader of the Government in the Senate. It deals with a matter usually explored by my colleague Senator Spivak. I understand that the proposed regulations dealing with hours of work for long-distance truckers are either ready now or will be ready shortly for circulation, discussion and comment by the Minister of Transport through the Canadian Council of Motor Transport Administrators.

The regulations propose to extend the number of allowable consecutive driving hours from 13 to 14 and to 84 driving hours in a seven-day period. In contrast, the United States is considering an increase from 10 to 12 hours with a maximum of 60 hours per week.

Could the Leader of the Government in the Senate explain why the government is considering a move to increase daily driving hours and weekly maximums for Canadian truckers when the United States has limited their maximum to 24 hours less per week, even after an increase of one hour per day of driving time?

Will the government give consideration to the mandatory installation of permanent onboard electronic recording devices on long-distance trucks to accurately monitor hours of work and rest?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, that question is causing increasing concern to those who travel roads like Highway 401 on which the volume of trucks seems to be increasing literally by the minute. I understand that no decisions have yet been made on the final report. When it is finally released, though, that report would be a valid target of study for our Standing Senate Committee on Transport and Communications.

**Senator Atkins:** Honourable senators, will the government give consideration to broadening the mandate of the Transportation Safety Board to include investigations of serious truck highway accidents, as has already been recommended by the Senate Special Committee on Transportation Safety chaired by the Honourable Senator Forrestall? Will the Leader of the Government in the Senate undertake with us today to refer these draft trucking regulations to the Standing Senate Committee on Transport and Communications?

**Senator Carstairs:** Honourable senators, there are several answers that I want to give to that question, not least of which is the response that last year I asked my staff to review recent Senate studies and to forward the committees' recommendations therein to the various ministers. I requested that information be forwarded when available. When I get that information, I send it off to the chairs of the appropriate standing committees. I want you to know that reports of the Senate are important to me and they are going forward in a very proactive way.

In terms of asking the government to consider broadening the mandate, I would be delighted to take that message through to

my colleagues. As to whether draft trucking regulations could be studied by the Standing Senate Committee on Transport and Communications, I believe that is in their mandate but we can certainly make the issue available to them if it is not.

#### AGRICULTURE AND AGRI-FOOD

##### PROBLEMS IN FARM COMMUNITY

**Hon. Leonard J. Gustafson:** Honourable senators, my question is directed to the Leader of the Government in the Senate.

Every senator knows about the very dry conditions in agriculture throughout Canada. There are severe problems from the Maritimes to the West. Some reports indicate that the rainfall levels are probably the lowest since the 1930s. The Minister of Agriculture did come out West and view the situation. For the most part, I understand we got a "no."

I want to assure honourable senators that that is not good enough. Senator Sparrow has just arrived. He instigated meetings in municipalities where the gophers were so thick they overran the municipality. For those of you who are not aware, gophers and grasshoppers follow drought and can cause severe problems.

Has the government leader observed any change in the position of the minister or of cabinet in regard to the serious problems facing farmers? Many bankruptcies will result from the drought and the low commodity prices. This drought could not have come at a worse time.

**Hon. Sharon Carstairs (Leader of the Government):** The honourable senator raises issues with respect to the drought in Canada which, in some areas, was extremely severe. There is no doubt about that. Parts of the country, though, have had an abundance of rainfall resulting in different problems in my particular province. In Saskatchewan, particularly the southern parts, as well as in the southern parts of Alberta and in some of the Atlantic provinces, the drought problem has been severe.

There is no question that the government is talking about it. As the honourable senator knows, I cannot divulge anything which takes place within the cabinet room until it becomes official government policy.

Crop insurance programs are in place and are expected to make record payouts this year as a result of the drought, which is a reflection of the genuine problem that exists in the community.

Producers have the Net Income Stabilization Account Program that is currently near \$3.2 billion. That money is available to farmers should they wish to access it. To date, only a very small portion has been accessed.

To some degree, we have just got the harvest into the bins at this point. The true extent of the problem is just now coming to light. I will bring the concerns of the honourable senator to the cabinet table as part of the discussion that takes place there.

**Senator Gustafson:** Honourable senators, many farmers have indicated that they have not taken their combines out of the sheds. I cannot emphasize enough the seriousness of the problem. I am somewhat bothered that when Air Canada is in trouble, for instance, immediately some government members speak out and say that something will definitely be done. That is the implication given in the media. The issue of agriculture is so important to this country. I am not suggesting that the airlines are not important, but we should perhaps look at all the other factors that exist within that issue.

I want to re-emphasize the importance of the government's action on agriculture. I would like assurance from the minister that this will be a high priority on her list in bringing issues before the cabinet and the Minister of Agriculture.

• (1410)

**Senator Carstairs:** Honourable senators, I come from a province in which agriculture is an extremely important part of our economy. As the senator representing that province, the honourable senator has my assurance that it is a very high priority.

[Translation]

## CUSTOMS AND REVENUE AGENCY

### MEETING BETWEEN MINISTER AND UNITED STATES OFFICIALS—CHANGES IN PRACTICES AND PROCEDURES

**Hon. Roch Bolduc:** Honourable senators, my question is for the Leader of the Government in the Senate. The newspapers tell us that the minister responsible for Customs has met U.S. representatives, including the U.S. ambassador to Canada. Following this meeting, he announced a change in customs practices and procedures. He did not even wait for passage of the bill to amend the Customs Act.

Could the Leader of the Government in the Senate assure us that the changes in practices, regulations or procedures are within the scope of the present Act to avoid the occurrence of a situation such as the one described by Senator Lynch-Staunton with respect to immigration?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the government has been moving slowly. For that, there has been a great deal of criticism from some areas. That the government has moved so carefully is a testament to its recognition that it cannot do what is outside the law. I will follow up further on this particular question of the honourable senator, but certainly, the policy of the government is that we must proceed slowly because we must have the legislative authority, passed by both Houses, to do that which we intend.

[Translation]

**Senator Bolduc:** Honourable senators, I mention it to the Leader of the Government in the Senate, because it has happened in the past. I sat for many years on the Scrutiny of Regulations

Committee. I can assure you that sometimes ministers or officials are overzealous and go beyond the spirit of the law. As we are dealing with a young minister, Martin Cauchon, a good fellow, still young, but ambitious, I want to be sure he is not going beyond the law.

[English]

**Senator Carstairs:** Honourable senators, I will tell the young minister that the Honourable Senator Bolduc wishes him to proceed with caution.

## SOLICITOR GENERAL

### RELEASE OF PERSONAL INFORMATION ON STUDENTS BY UNIVERSITIES TO POLICE AND GOVERNMENT AGENCIES

**Hon. Lois Wilson:** Honourable senators, my question is for the Leader of the Government in the Senate. Reliable information has reached me that, in the wake of the New York disaster, the RCMP and other government agencies have been investigating university students at the University of New Brunswick. The investigators are interested solely in those students with Arab backgrounds and an interest in engineering or science. The investigations appear to be widespread with reports from several campuses across Canada. The administration of UNB has a policy of confidentiality and security for students, and the release of student information records cannot be done without the agreement of the campus registrar.

However, the administration has also indicated that this policy is currently being reviewed. The release of personal information of university students could have serious implications for the privacy and academic freedom for university personnel across Canada.

What assurance have we that the RCMP and other government agencies have demonstrated the need for any actions that may encroach on fundamental rights of Canadian students?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, a very serious question has been raised. I regret to tell the honourable senator that I do not have an answer for her. I will make inquiries and I will respond to Senator Wilson as quickly as possible. Obviously, not only is the safety of Canadians important, but so too is the academic freedom that takes place in the institutions of this country. I can assure the honourable senator that I will remain vigilant until I obtain an answer for her.

## HERITAGE

### MUSEUM OF CIVILIZATION DECISION TO CANCEL EXHIBIT BY ARAB COMMUNITY

**Hon. Marcel Prud'homme:** Honourable senators, having gone through the debate on the War Measures Act, I did my duty by voting in favour of it in the House of Commons. I keep repeating that we were wrongly informed but, unfortunately, with the information that we had I saw fit to vote in favour of the War Measures Act, even though people expected me to vote against it.



Thirty years later, I see the same kind of “paranoia” slowly creeping across Canada. Senator Wilson has referred to a part of it, and I thank her for her question. I should like to refer to another part, and on this one you will have to be in agreement with me, given the strong answer yesterday by the Prime Minister of Canada to a question asked by the leader of the NDP.

I received a series of letters addressed to Dr. Rabinovitch, President and Chief Executive Officer of the Museum of Civilization. The writers of these letters are appalled by the Museum of Civilization’s decision to indefinitely postpone the Arab-Canadian art exhibit.

This is a time when the Arab-Canadian community should be proud of their culture and should be able to demonstrate to other Canadians that they are part of the tapestry of Canada. Cancelling the exhibition only endorses the negative stereotypes of Arabs, which is definitely not the mandate of the Museum of Civilization.

For the reasons given in a press interview, I am appalled by the nerve of people who say, “Well, we thought we could probably deepen the kind of information that the exhibit provides to the public about Arab-Canadians.” I have never seen that done before. The Museum of Civilization has indefinitely postponed the exhibit prepared by people who have worked for five years in the expectation there would be an opening on October 18 and 19, because some people say they have certain information. It has never been done for any other group that has had exhibits.

Would the honourable senator and all honourable senators say that we are in full agreement with the Prime Minister? Thank God Mr. Day is not the Prime Minister, as I said in my speech to the press, but it was not reported. He is the only one who disagreed yesterday, it seems. The remaining members of the House gave a standing ovation to the Prime Minister, who said that it is the wrong decision at this time and that this exhibition should take place.

Would the honourable leader convey that some senators approve strongly of the answer the Prime Minister gave yesterday, and that many feel this is way above political partisanship?

**Hon. Senators:** Hear, hear!

**Hon. Sharon Carstairs (Leader of the Government):** I believe that the honourable senator already has his answer in the clear support indicated from all sides of this chamber for the Prime Minister’s remarks yesterday. He said in the clearest possible terms that this exhibit should go forward and it should go forward now. Although the museum has said that it will take place sometime before March 1, 2002, he indicated that if it is good enough for March 1, it is good enough for October. I concur absolutely with the Prime Minister.

**Hon. Senators:** Hear, hear!

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table two delayed answers: first, to the question raised by Senator Gauthier, on May 17, concerning justice and official languages and, second, the questions raised by Senator Nolin, on June 13, concerning the June 13 meeting of the heads of NATO countries.

## JUSTICE

### OFFICIAL LANGUAGES—COURT ACTION BY COMMISSIONER INVOLVING QUEBEC BILL 171—INTERVENTION BY FEDERAL GOVERNMENT

(Response to question raised by Hon. Jean-Robert Gauthier on May 17, 2001)

The Superior Court of Quebec heard the arguments in the cases brought by a number of municipalities in Quebec to challenge the validity of Bill 170, *An Act to reform the municipal territorial organization of the metropolitan regions of Montréal, Québec and the Outaouais*, and of Bill 171, which amends some provisions of Quebec’s *Charter of the French Language*.

As is the usual practice in cases at the trial level, the Attorney General of Canada did not make representations to the Court in this matter. Generally, the Attorney General of Canada does not participate in cases in which she is not a party unless the case is before the Supreme Court of Canada.

As a *mis-en-cause*, the Attorney General of Canada is following these cases closely. We will await the decision of the Quebec court and advise in due course.

As for subsection 16(3) of the Charter, it states a very significant rule of constitutional interpretation. First expressed by the Supreme Court of Canada in 1975 in the *Jones* case, the principle of advancement of English and French recognizes that constitutional guarantees build floors for language rights, not ceilings. In the *Jones* case, the Court found in favour of the constitutional validity of the *Official Languages Act*, which added to the existing language rights.

Our Government remains firmly committed to that Act and to enhancing the vitality and development of the English and French linguistic minority communities in Canada.



**NORTH ATLANTIC TREATY ORGANIZATION**

MEETING OF HEADS OF STATE—REQUEST FOR COMMENTS BY  
PRIME MINISTER—STATEMENT OF SECRETARY GENERAL  
ON CONFLICT IN MACEDONIA

*(Response to questions raised by Hon. Pierre Claude Nolin on  
June 13, 2001)*

**QUESTION:**

Could the minister share with us the message delivered by Prime Minister Chrétien to his North Atlantic Alliance colleagues?

**ANSWER:**

Because of the nature of the discussion, there is no overall text of the Prime Minister's interventions during the leaders' meeting in Brussels on June 13. However, the following are the key messages which the Prime Minister delivered through his various interventions during the meeting:

The Alliance has adapted well to the new security environment since the end of the Cold War. It must continue to make itself ready to respond to the new challenges ahead.

The further enlargement of the Alliance is the best way to extend the zone of stability and security in Europe. We must fulfill the promise of an undivided Europe.

Canada is ready to engage with the US and our other allies in a meaningful and measured exchange to explore the issues raised by President Bush in his May 1 speech about the strategic framework, including missile defence.

We share US concerns about many of the new threats and believe we need to work together to develop new approaches to address them, in particular via diplomatic measures. Missiles defences may be able to play a role in this new environment, but this will depend entirely on how they are pursued.

We would be concerned if an approach emerged which alienated Russia and/or China, which did not sustain the gains of the international non-proliferation, arms control and disarmament (NACD) regime, which jeopardized prospects for fulfilling our NACD commitments and which failed to enhance our overall security.

Canada supports the evolution of the European Security and Defence Policy, but NATO must remain the primary security and defence organization for its members.

NATO and the EU must develop a strong cooperative relationship that protects the interests of all 23 NATO and EU states.

Extremists throughout the Balkans cannot be permitted to undermine the gains we have achieved. Regional leaders need to play their role to impress upon all parties that threats to the stability of the region cannot be tolerated. NATO continues to play an essential role.

**QUESTION:**

What is Canada's position on the situation in Macedonia?

To what "presence" was Secretary General Robertson referring to when he said that "Our goal is to see the democratic structures in the region become strong enough to be self-sustaining. That job is not yet done. We will therefore maintain our presence."

**ANSWER:**

On June 21, following from the leaders' discussions and in response to an invitation to assist from Macedonian President Trajkovski, NATO announced its willingness to assist a voluntary disarmament operation in Macedonia provided the following conditions are met - successful outcome to dialogue between the political parties, a durable cease-fire and clear agreement to disarm by the armed groups. Canada supported NATO's initiative.

On August 13, the Macedonian coalition government announced the signing of a Framework Agreement for peace. Shortly thereafter, NATO concluded that the conditions for a weapons collection mission had been met, and initiated Operation Essential Harvest on August 27.

Canada has contributed 200 troops to Task Force Harvest. The CF contribution to Task Force Harvest is a concrete and highly visible demonstration of Canada's commitment to Macedonian and Balkan peace and security.

As of mid-September, the NATO operation has met its goals, successfully collecting two-thirds of the weapons slated to be collected from the National Liberation Army.

Canada with other NATO countries does not believe this mission should be extended. The issue of a separate subsequent and different NATO mission in Macedonia is only now being considered by NATO, and would need the agreement of the Macedonian government.

We expect the Macedonian National Assembly will recognise that the implementation of the Framework Agreement is the only path to peace and that it will strongly support the constitutional reforms.

Macedonian political leaders have courageously chosen the path to peace and we hope that all Macedonians will equally demonstrate their fortitude by accepting the outcome of this democratic process.

In conjunction with CIDA, Canada is in the process of developing a package focussing on inter-ethnic confidence buildings measures to support the implementation of the Framework Agreement.

Over the last two years, Canada has provided \$8 million to Macedonia, mainly for economic reform and democratization.

In addition, since the crisis began, we have provided \$700,000 in humanitarian assistance to those people affected by recent events in northern Macedonia.

A Canadian took charge of the OSCE Spillover Monitoring Mission on 19 August 01. We are also considering the deployment of additional monitors to the OSCE mission.

Secretary General Robertson, in the statement cited by Senator Nolin, was referring to NATO's presence in Bosnia and Kosovo. NATO currently has some 43,000 troops in Kosovo and some 21,000 troops in Bosnia. Canada has concentrated the Canadian Forces Balkans' deployment in Bosnia where we have some 1700 troops in Multinational Division South West. A Canadian, Major General Rick Hillier, commanded the forces in MND SW which include UK, Dutch and Czech troops, from September 2000 until September 2001.

#### QUESTION:

What is the Canadian position with respect to the following statement by the NATO Secretary General, "If we want NATO to be as successful in the future as it has been in the past, we must all invest wisely and enough, to ensure that we have the military capabilities for any crisis of the future."

#### ANSWER:

Canada has been a strong supporter of an initiative to strengthen the capabilities of allies called the Defence Capabilities Initiative.

We agree that there is a need to improve interoperability among NATO forces and believe that this initiative will improve the overall effectiveness of NATO, as well as trans-Atlantic cooperation.

Canada must remain interoperable with our allies. DCI is a key step in helping to modernize our forces in conjunction with NATO allies, particularly the US.

Over the past two years, this government has increased defence spending by some \$3 billion. These funds are focussed on people, leadership and equipment.

The funds are focussed on quality of life initiatives aimed at making the Canadian Forces a career of choice. Retaining and attracting quality people is critical to enhancing operational capability.

[ Senator Robichaud ]

Second, we are placing a great emphasis on leadership and education as an investment in the future.

Finally, the Department of National Defence is pursuing an ambitious equipment program which includes the purchase of Upholder-class submarines and new ship-borne helicopters, as well as the modernization of our maritime patrol aircraft and the upgrading of our CF-18 aircraft.

In addition, the Army is receiving state-of-the-art equipment, such as the Light Armoured Vehicle (LAV) III and new individual equipment for all soldiers.

These initiatives will continue to increase the operational effectiveness of Canada's Forces.

#### ANSWER TO ORDER PAPER QUESTION TABLED

CUSTOMS AND REVENUE AGENCY—RULES AND RESTRICTIONS  
CONCERNING DUTY-FREE SHOPS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** tabled the answer to Question No. 1 on the Order Paper by Senator Comeau on February 7, 2001.

#### L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

CANADIAN DELEGATION TO MEETINGS OF JULY 6 AND  
JULY 8 TO 10, 2001—REPORTS TABLED

Leave having been given to revert to Tabling of Interparliamentary Delegations Reports:

**Hon. Rose-Marie Losier-Cool:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, two reports of the Canadian delegation to the Assemblée parlementaire de la Francophonie and the related financial report. The first report deals with the meeting of the Bureau held in Quebec City on July 6, 2001, while the second one deals with the twenty-seventh regular session, from July 8 to 10, 2001.

• (1420)

[English]

#### THE SENATE

INTRODUCTION OF PAGES

**The Hon. the Speaker:** Honourable senators, before proceeding to Orders of the Day, I should like to introduce additional pages who are with us for this session.

I shall start with Maxime Gagné.

[Translation]

Maxime Gagné is from Alma, Quebec. He begins his second year as a page in the Senate and will be the deputy head page. He is currently studying toward his licence in civil law at the University of Ottawa, with a specialization in contracts and new technologies.



**Hon. Senators:** Hear, hear!

[English]

**The Hon. the Speaker:** Grant Andrew Holly is a proud native of Chatham, Ontario. Grant is a fourth-year public administration student at Carleton University. He is pleased to serve as a second-year page in the Senate.

**Hon. Senators:** Hear, hear!

[Translation]

**The Hon. the Speaker:** I should like to introduce Nathanael Joshua Alexander Watt. Josh was born in St. Boniface, Manitoba. He is currently pursuing an honours degree at Carleton University with a major in political science, Canadian politics and law. This is Josh's second year with the Senate Page Program.

**Hon. Senators:** Hear, hear!

[English]

**The Hon. the Speaker:** Catherine Cecchini is from Timmins, Ontario. This is Catherine's first year at the University of Ottawa, where she is studying psychology. Good choice. Catherine joined the page program this September.

Pierre-Philippe David was born in Timmins, Ontario. He is currently studying in his third year of a three-year English program at the University of Ottawa. This is Pierre-Philippe's first year in the Senate Page Program.

**Hon. Senators:** Hear, hear!

[Translation]

**The Hon. the Speaker:** Also in the gallery is Suzanne Gallant. Suzanne is from Moncton, New Brunswick, in the heart of Acadia. She is currently in her second year of an honours degree in social sciences, with a specialization in international and comparative political science, and with a concentration in globalization. Suzanne enthusiastically joined the Senate Page Program in September.

**Hon. Senators:** Hear, hear!

[English]

**The Hon. the Speaker:** Michelle Suzanne Jones is a proud Western Canadian, born in Kamloops. Currently, she is in her second year of a four-year honours degree program studying international politics, with a minor in Canadian studies, at the University of Ottawa. This is Michelle's first year with the Senate Page Program.

**Hon. Senators:** Hear, hear!

## ORDERS OF THE DAY

### IMMIGRATION AND REFUGEE PROTECTION BILL

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Morin, for the second reading of Bill C-11, respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger.

**Hon. A. Raynell Andreychuk:** Honourable senators, I wish to put on the record some comments with respect to Bill C-11. I do not intend to go into the details of the bill. However, I feel it is important to underscore the valuable comments that some of our colleagues have made with respect to this bill.

In particular, I commend the comments made about the worth, value and the essential nature of immigration in Canada. I do not think that anything we do in this chamber should undermine the valuable contribution of the immigrants who have come to Canada, settled here, became Canadian citizens and made our country what it is.

Honourable senators, it is incumbent upon us to ensure that we make no distinctions when we become Canadians about whether we were born here or we arrived here. We must always be mindful that it is not an issue that we should make note of once citizenship has been obtained.

In fact, this Senate and the Standing Senate Committee on Legal and Constitutional Affairs spent many hours studying a bill that dealt with citizenship. One of the difficulties we found was that wording at the beginning of the bill talked to citizenship and to all Canadians, but only in one provision. Thereafter, the bill really spoke to issues separating those who were not born on our soil. In that respect, I fundamentally disagreed with that bill. We should not use a citizenship act and a process of denaturalization to make up for errors that should be corrected within immigration policy and practice. We went so far as to say that it was difficult to assess the Citizenship Act because we did not have the Immigration Act before us.

My reason for standing today is the fact that we have before us Bill C-11, a bill that deals with many of the same issues of balancing security and protection for Canadians. As well, the bill deals with the integrity of the values for which we stand as we welcome new people to this country. We want to ensure that they come here legally and that they understand the responsibilities as well as the rights that they obtain by coming to Canada.

In the citizenship bill, as we studied it, the Standing Senate Committee on Legal and Constitutional Affairs gained great insight into the balancing act between protection, security and the rights of an individual. Therefore, I strongly suggest that in expediting Bill C-11, it would be in the best interests of Canadians and the Senate if the bill were referred to the Legal and Constitutional Affairs Committee.



I do not think many people would argue with the intent of Bill C-11; that is, to have some orderly manner of ensuring that those who come to our shores are ready and able to assume a responsible role in our society, whether it be at the stage of residency or full citizenship.

We are also mindful that many people do come to Canada. They choose Canada for valid reasons. Many of them choose Canada for the values that we have, as opposed to the values of the countries in which they find themselves.

In addition, we know that some 40 million people worldwide could be classed as in flux or migration, either within one country or between countries. Certainly, Canada has a legal obligation under international conventions and a moral obligation as citizens of the world to accept many of these people on our shores.

We know that these people would prefer to come and would come in a legal manner, but for the fact that there are forces trafficking in migrants. We should not be targeting the migrant who wishes to come to Canada but, rather, those who profit by bringing them here. That is where I believe Bill C-11 was heading. The issues that led to the drafting of Bill C-11 included issues of proper and orderly migration, ensuring that migrants do not have backgrounds that would preclude them from coming to Canada on an honest and sincere basis, and our understanding that there are some nefarious forces that need to be dealt with.

I was pleased to see that Canada has not only entered into some international covenants, but has also worked to pass enabling legislation in Canada to support these international activities.

My concern — and the concern of many in the other place as well as many constituents across Canada — is my wish to ensure that Canada will have a due process for those who come to our shores, as well as the proper tools and methods for both CSIS, the RCMP and the immigration authorities to do the kind of screening and analysis that they should do.

If we look at the present act, I am mindful of the fact that we are thin on the ground. Often, we have allowed people with criminal records to come to Canada, or people who have been involved in atrocities in other countries. If one were to review the background of some of these cases, one might easily see how these people slipped into our system. It has become an administrative malfunction as opposed to a need for change. The debate on Bill C-11 could address whether we need to strengthen the bill or whether we need to change some of the administrative practices.

For example, how can an RCMP or CSIS officer based in Paris perform a proper investigation on those who wish to immigrate to Canada from Algeria or Morocco? Staffing has been cut to the bone, and many of our systems are not modernized. That kind of debate is necessary and should continue, as it did in the other place.

The essential element of Bill C-11 revolved around the fact that, whatever the issue, Canada would set a high standard to ensure that we deal with immigrants, whoever and wherever they come from and whatever their backgrounds, in a fair and reasoned manner. Therefore, the entire focus is on a legal issue of

due process, fairness and compliance with the Charter of Rights and Freedoms. These are all issues that honourable senators pride themselves in, in the work done in this chamber and in the work of the Standing Senate Committee on Legal and Constitutional Affairs.

Honourable senators are proud that we have built up a body of expertise in these areas. That is why we are competent to deal with some of the issues in a manner different than the other place. The other place seems to deal with ideologies that affect public policy. Honourable senators concern themselves with issues such as the adequacy of the legislation, whether protections are in place, whether the Constitution has been properly taken into account, the federal-provincial responsibilities with respect to issue, and whether the provisions of the Charter of Rights have been adequately met.

I believe there is a need to scrutinize the immigration bill in the same manner as the citizenship bill. In addition, there is a need to look at the rights and responsibilities of refugees vis-à-vis those of immigration. The immigration process is entirely different from the refugee process. Immigration involves a choice of standards, rules and impediments, in some cases, that we put in place for those who wish to come to this country. Immigration is not a right; it is an opportunity that Canada affords to others. We benefit, and we have some obligations. Once the process starts, we hope it is a legal process that benefits both Canadians and those who apply.

I am mindful of the speeches made at the time of the citizenship bill that addressed these issues.

With respect to refugees, not only do we need to do the screenings to ensure that we adequately protect the Canadian public, but also we must look at whether we adequately and properly discharge our responsibilities as international players.

As Canadians, we pride ourselves on being a multinational country, being part of the world community and part of the United Nations machinery. Part of that is our responsibility to accept refugees and to deal with them in the most humane way possible. That does not mean simply putting refugees on notice that if they come here they must abide by certain rules. There is some obligation to understand where they come from. Terrorism is one issue. The torture and the treatment that many of these refugees have endured in the countries from which they have come is horrific. We know that many of these people have been brutalized.

I was pleased to see in my time in the foreign service that Canada, under a previous government, instituted support systems for those who would immigrate to Canada. If an individual has been in a foreign jail cell or has been tortured, the ability of that person to integrate into Canadian society is surely affected, and we have some responsibility to understand these difficulties. Those are issues that demand a different approach than those we adopt in immigration.

Consequently, it has troubled me that we have talked about refugees, immigration, denaturalization and citizenship as one issue. These subjects are separate and distinct. Whether these items are addressed in one or they are separate, they demand a different scrutiny and process. The level of protection and the level of risk we take in each should also be analyzed.

These are legal issues. Consequently, Bill C-11 is not an issue that divides this chamber or Canadians along party lines. What Bill C-11 demands is some degree of scrutiny, not only to ensure that the best possible legal means are there to protect Canadians in this process, but also to live up to the standards and values that we say we hold and to the Constitution to which we adhere.

• (1440)

When we come to the events of September 11, they colour all of us. Much has been said in the newspapers, in this chamber and elsewhere that the world has changed, and that we must quickly put in place systems to ensure that Canada is protected from the kind of international terrorism we witnessed on September 11 and from which we are no longer immune.

If we look at Bill C-11 clause –by clause, honourable senators, we see that it represents a fraction of what needs to be done. We should proceed according following the announcement by the government that the entire field of terrorism must be looked at and, perhaps, that it needs specific legislation. We should not mislead the public into believing that the passage of Bill C-11 will protect us against the kind of international terrorism witnessed on September 11. We must look at the definition of “terrorism” in the CSIS Act, which must be updated. We must look at the practices, procedures and powers we have given to the RCMP and to CSIS.

**The Hon. the Speaker:** I regret to advise the Honourable Senator Andreychuk that her 15 minutes have expired.

**Senator Andreychuk:** May I have just a few more minutes?

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** We are certainly willing to grant leave for Senator Andreychuk to finish her speech.

**Senator Andreychuk:** Suffice to say, I believe that Bill C-11 does not address the issue of terrorism; therefore, that issue must be studied.

I remind honourable senators that if we want to look at what we need to do with respect to this new form of terrorism, we should look at the security and intelligence report tabled here in January of 1999 as a start. Immigration was only one small factor in our report. We must look elsewhere for our protections.

If we are to analyze Bill C-11, we must look at the new issue of terrorism because the bill was based on the concept of terrorism we knew before September 11, or at least as most of us knew it. This type of terrorism was restricted to a region. We were looking to protect ourselves against that kind of terrorism.

We now know, as the Americans are also stating, that there are no borders to this type of terrorism. Consequently, we must look at global terrorism and its impact on Canada, not how to shore up our treatment of traditional types of terrorism.

Honourable senators, there is a heightened need to study Bill C-11 to ensure that the security measures contained therein are meaningful in light of the new international terrorism. We must ask whether any of our rights and freedoms will be curtailed. Again, we must balance security, which all of my colleagues have talked about, against rights and Charter implications.

These issues should be legitimately and appropriately dealt with by the Standing Senate Committee on Legal and Constitutional Affairs. I believe that committee would deal with Bill C-11 expeditiously given the committee's background. The makeup of that committee has not changed much since the analysis of case law and the discussions with witnesses called to testify on Bill C-16, the Citizenship Act.

Honourable senators, I look forward to deliberation and discussion in greater detail on the issue of immigration. I caution, however, that we must study this bill in a reasoned way.

Most of us have as hallmarks our birth date, perhaps a date of marriage and an anniversary date. I often receive letters asking me to send letters of congratulation to people who want to remember an anniversary, and that is the anniversary of the day they became a Canadian. Rarely do I receive a letter from Canadians who want to have a date set aside other than July 1 to honour their good fortune to be Canadians.

Honourable senators, we must not undermine and we must not make any segment of Canadian society feel that it is somehow different and less Canadian. This constitutional protection must be examined cautiously in dealing with the issue of immigration.

I support previous speakers who asked that there be a thoughtful and reasoned debate of this matter by the Standing Senate Committee on Legal and Constitutional Affairs.

**The Hon. the Speaker:** Are honourable senators ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Cordy, seconded by the Honourable Senator Morin, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

**Hon. Jane Cordy:** Honourable senators, I move that the bill be referred to the Standing Senate Committee on Social Affairs, Science and Technology.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?



**Hon. Consiglio Di Nino:** Honourable senators, the suggestion by Senator Beaudoin, a foremost expert on the Constitution of this country and on the implications of this bill —

**The Hon. the Speaker:** Senator Di Nino, this is not a debatable motion. Thus, I must ask honourable senators if they give leave for this question to be asked.

Is leave granted?

**Hon. Senators:** Agreed.

**Senator Di Nino:** I thank honourable senators for their courtesy. I have just one comment.

Obviously, Senator Beaudoin and our side feels that the bill should go to the Standing Senate Committee on Legal and Constitutional Affairs. We know the numbers, so we cannot really fight the bill. We believe it would best be studied under that particular authority rather than the Standing Senate Committee on Social Affairs, Science and Technology.

Can Senator Cordy or the Leader of the Government tell us about the schedule of the Social Affairs Committee in terms of dealing with this issue? I have been told, not officially, that the committee intends to sit all of next week as much as possible to study the bill, which I applaud. I understand we will come back on Monday for that, and I think that is fair as well.

One of the concerns I have is about trying to discharge our responsibilities while committee chairs are setting up conflicting times for committee meetings. For example, I am told that we may sit on Tuesday as well to discuss this bill. At same time, the Foreign Affairs Committee and the Rules Committee will be sitting. Has any consideration been given to having a cooperative discussion to ensure that those who are interested can be there to deal with this bill at committee and participate in hearing and questioning the witnesses?

• (1450)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, in response to the questions that have been posed by the Honourable Senator Di Nino, rule 86(1)(m) makes it very clear that matters of employment and immigration go to the Standing Senate Committee on Social Affairs, Science and Technology. Of course, if we wanted to use the broad terms of mandate of the Standing Senate Committee on Legal and Constitutional Affairs, we could send it to that committee, but we have already sent two bills to the Standing Senate Committee on Legal and Constitutional Affairs this week, the bill dealing with youth justice and the bill dealing with criminal organizations.

In order to even the workloads of the various committees, and because it is specifically mentioned in the mandate of the Standing Senate Committee on Social Affairs, Science and Technology, the bill will be referred to that committee.

As to the meetings of the committee, unfortunately meetings of that committee usually do conflict with sittings of the Standing Senate Committee on Foreign Affairs because their time slots are similar. Senators will have to decide individually which committee they will attend on that day.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

On motion of Senator Cordy, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology, on division.

[Translation]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of Les cyclistes des mineurs de l'amiante, from Thetford Mines and Asbestos, in Quebec. They are guests of Senator Setlakwe. On behalf of all senators, I welcome you to the Senate of Canada.

[English]

## STATUS OF LEGAL AID PROGRAM

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the status of legal aid in Canada and the difficulties experienced by many low-income Canadians in acquiring adequate legal assistance, for both criminal and civil matters.—(Honourable Senator Hubley).

**Hon. Elizabeth Hubley:** Honourable senators, it is an honour to rise today in support of the inquiry of my colleague Senator Callbeck into the status of legal aid in Canada. At the outset, I wish to commend Senator Callbeck for bringing this important issue to the forefront and for pointing out the inequities and flaws in our present system.

Indeed, as Senator Callbeck has demonstrated, legal aid in Canada is really not a national system at all but rather a collection of programs and services that vary greatly from one province to another. This inconsistency is the result of different rules respecting access and the funding that is accorded legal aid in each jurisdiction.

The federal government, for its part, has allowed funding for legal aid to whither away, and federal assistance to provinces for civil legal aid is now part of the general Canada Health and Social Transfer.

The result, honourable senators, for smaller provinces like Prince Edward Island is that legal aid services are severely underfunded. This means that many of the people whom legal aid is supposed to help are denied access to what I believe should be a basic right of every citizen — the right to be represented before the courts, the right to a fair trial.



I should like to conclude my remarks on this important subject matter at this time and to adjourn the debate in my name.

On motion of Senator Hubley, debate adjourned.

### QUESTION OF PRIVILEGE

COMMENTS BY MINISTER OF CITIZENSHIP AND IMMIGRATION

**The Hon. the Speaker:** Honourable senators, having reached the end of the Orders of the Day, we will now hear debate on the question of privilege of which Senator Lynch-Staunton gave proper notice under Senators' Statements.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I rise to speak on the question of privilege of which I earlier gave both written and oral notice.

The facts of this case are, I believe, quite simple, but I think it is necessary to spell them out. I will take a few minutes to do so.

In the days following Parliament reconvening after the summer recess, the Minister for Citizenship and Immigration has been subjected to questions in the other place about Canada's immigration laws because of the tragedy of September 11. The nature of the questions have been along the line of requesting her to take action to secure our immigration and refugee system from abuse, especially abuse at the hands of possible terrorists posing as refugees or those seeking to immigrate to Canada.

Her answers to these questions, until yesterday, in the House of Commons have been a model of consistency. On September 17, she stated:

I will say that Bill C-11 gives us important new tools to ensure that we are able to do things such as up-front security screening and to bar access to the refugee determination system for anyone that we believe poses a security threat to Canada. We need the bill.

On September 19 she stated:

Mr. Speaker, as the member knows the protection of Canadian documents and security protection for Canadians is a priority for the government. In Bill C-11 we referred to a new permanent resident card which will replace the IMM 1000. That has policy approval and we are hoping it will move forward as quickly as possible. It is under development.

On September 25 she stated:

Mr. Speaker, I would remind the hon. member that Bill C-11 is at the Senate. It is having hearings next week.

I have asked the Senate to ensure that the bill is passed as quickly as possible. It contains important tools for my department so that we can more quickly identify and streamline our procedures. Everyone knows that at the present time it takes too long, and we feel it is an important tool for us to do what needs to be done for all Canadians.

• (1500)

Clearly, it was the opinion and belief of the Minister of Immigration that Bill C-11, the new immigration bill, would have to be passed into law before she could act to enhance the screening of refugees and to move forward with new ID cards.

As everyone in this chamber is aware, Bill C-11 has only just received second reading and has been moved to committee. As we have been informed by Senator Di Nino, it will be the subject of intense committee scrutiny starting on Monday. It has not, therefore, received third reading and has certainly not received Royal Assent. It is not law.

Therefore, it was not without some degree of shock that we learned yesterday that the Minister of Immigration had decided to go ahead and implement clauses of Bill C-11. I have the transcript here of a radio interview with Peter Armstrong of the CBC from yesterday morning. I am willing to table it, but I will read it all anyway. It is not that long. It is pertinent.

**The Hon. the Speaker:** Honourable senators, is leave granted to table the document?

**Hon. Senators:** Agreed.

**Senator Lynch-Staunton:** Thank you.

Here is the transcript.

PETER ARMSTRONG (CBC Reporter): Officials in both Canada and the United States have raised serious concerns about the border. From U.S. Attorney General John Ashcroft to New York Senator Hillary Clinton, American officials say security needs to be increased along the frontier. In Ottawa, Immigration Minister Elinor Caplan says new measures on both sides of the border are already in place.

ELINOR CAPLAN (Immigration Minister): We are increasing. I've given the order to do in-depth security screening of all claimants at our ports of entry. That has begun, we haven't waited for Bill C-11 and that will cause delays for people trying to enter Canada.

ARMSTRONG: Bill C-11 is Canada's new immigration law. It recently received Cabinet approval but it's still before the Senate. Caplan says the measures outlined in that bill need to be implemented now.

CAPLAN: We have operationalized the policy, which was approved by Cabinet, Bill C-11.

UNIDENTIFIED (Reporter): Even though you do not have a law in place?

CAPLAN: That's correct.

UNIDENTIFIED: So isn't that..., I mean if there's..., isn't there a legal...,

CAPLAN: You think that's a bad idea?

UNIDENTIFIED: No, I'm asking you, isn't there a legal...,

CAPLAN: I'm doing it.

It is clear from this interview, and other reports, that the minister has deliberately decided to ignore the proper, legitimate and constitutional role, not only of our chamber, honourable senators, but of the Crown as well, as demonstrated through Royal Assent, which must follow any bill before it can become law.

Honourable senators, the minister has shown contempt for Parliament by adopting measures for which, by her own admission, she believes she has no parliamentary authority.

Senator Carstairs quoted earlier a letter from the minister explaining what she was doing and claiming that it was under parliamentary authority. However, nowhere in that letter does she retract statements that are on the record, that have been recorded and listened to and can be heard again. All she says is that she regrets any confusion that media reports of her comments may have created.

There are no media reports that have created confusion. It is the quotations from the minister that are creating consternation. If the minister had only apologized for them and retracted them — and I know that she and other ministers key to recent developments and trying to find solutions to them are under a great deal of stress — we would not be having this debate today. Unfortunately, by not retracting them, so far, she obviously maintains them.

Honourable senators, therefore, this is certainly a breach of the privileges we enjoy as members of Parliament and is surely a contempt of Parliament of the worst kind.

The classic definition of privilege is found in the 22nd edition of Erskine May, page 65:

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law. Certain rights and immunities such as freedom from arrest or freedom of speech belong primarily to individual Members of each House and exist because the House cannot perform its functions without unimpeded use of the services of its Members. Other such rights and immunities such as the power to punish for contempt and the power to regulate its own constitution belong primarily to each House as a collective body, for the protection of its Members and the vindication of its own authority and dignity. Fundamentally, however, it is only as a means to the effective discharge of the collective functions of the House that the individual privileges are enjoyed by members.

Erskine May goes on to further define contempt at page 108:

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent to the offence.

With regard to our own Parliament, both Beauchesne's 6th edition and the new procedural text entitled *House of Commons Procedure and Practice* by Robert Marleau and Camille Montpetit are quite helpful. Let me quote from Beauchesne at pages 11 and 12, paragraph 25:

The Speaker has stated: "On a number of occasions I have defined what I consider to be parliamentary privilege. Privilege is what sets Hon. Members apart from other citizens giving them rights which the public does not possess. I suggest that we should be careful in construing any particular circumstance which might add to the privileges which have been recognized over the years and perhaps over the centuries as belonging to members of the House of Commons.

In my view, parliamentary privilege does not go much beyond the right of free speech in the House of Commons and the right of a Member to discharge his duties in the House as a Member of the House of Commons."

Now I quote from Marleau and Montpetit, who describe contempt of Parliament as follows, at page 52:

Any conduct which offends the authority or dignity of the House, even though no breach of any specific privilege may have been committed, is referred to as a contempt of the House. Contempt may be an act or an omission; it does not have to actually obstruct or impede the House or a Member, it merely has to have the tendency to produce such results.

Speaker Sauvé reminded the House of Commons in a ruling dated October 29, 1980, that the definition and application of the concept of contempt is ever-changing:

While our privileges are defined, contempt of the House has no limits. When new ways are found to interfere with our proceedings, so too will the House, in appropriate cases, be able to find that a contempt of the House has occurred.

As stated by Marleau and Montpetit at page 95:

...the privileges and powers of the House of Commons as a collectivity do not lend themselves to specific definition. The privileges needed by the House to perform its constitutional duties require the power to protect itself and punish any transgressions against it.

This, of course, is true here in the Senate.



It is the individual privileges of senators that have been breached by the actions and remarks of the Minister of Immigration. As well, the rights of the collectivity, the Senate, have been breached by her actions, which may be properly categorized as a "contempt of Parliament."

As stated in Maingot's *Parliamentary Privilege*, 2nd edition, page 183, it is "...the right of our Chamber to regulate its own internal affairs especially with regard to our agenda and proceedings." What the minister has done is interfered with that right. She has determined that the proceedings of the Senate and subsequently the Crown, in the act of Royal Assent, are irrelevant. This is clearly a contempt of Parliament. She has anticipated the work of this chamber, something she clearly cannot do as a minister of the Crown.

I should like to refer specifically to two cases that are relevant to this argument. In one, the Speaker issued a stern warning to the government not to ignore Parliament; in the other case, the Speaker found a *prima facie* case in circumstances amounting to a contempt, which are instructive in the situation before us today.

**Senator Graham:** Which two cases?

**Senator Lynch-Staunton:** The first is a Speaker's decision in the House of Commons dated December 10, 1989, found in the *House of Commons Debates*, pages 4457 to 4461. The case involved the Department of Finance anticipating the passage of legislation and publishing in newspapers across the country an advertisement that stated:

On January 1, 1991, Canada's Federal Sales Tax System will change. Please save this notice. It explains the changes and the reasons for them.

The question of privilege raised in this case was that this advertisement was published while the bill authorizing the change was still in the House of Commons. It was argued that the advertisement prejudiced the future proceedings of the House and the Finance Committee, which had undertaken a technical study on the subject. Second, it was argued that it left the reader to infer that the House of Commons had no role in the passage of the tax.

While the Speaker did not find that the privileges of members had been breached by the action of the Department of Finance, he did make some comments on the actions of the department, which should be repeated here today. In concluding his judgment that, on balance, there was not a *prima facie* case of contempt, the Speaker said, as reported at page 4461 of Hansard:

I want the House to understand very clearly that if your Speaker ever has to consider a situation like this again, the Chair will not be as generous. This is a case which, in my opinion, should never recur. I expect the Department of Finance and other departments to study this ruling carefully and remind everyone within the Public Service that we are a parliamentary democracy, not a so-called executive democracy, nor a so-called administrative democracy. This advertisement may not be a contempt of the House in the

narrow confines of a procedural definition, but is, in my opinion, ill-conceived and it does a great disservice to the great traditions of this place. If we do not preserve these great traditions, our freedoms are at peril and our conventions become a mockery. I insist, and I believe I am supported by the majority of moderate and responsible members on both sides of the House, that this ad is objectionable and should never be repeated.

• (1510)

The second case is much more recent, being a decision by made only last March by Speaker Milliken. It involved a media briefing held by the Department of Justice on Bill C-15, which had yet to be introduced in the House.

The Speaker dealt with the issue of confidentiality and the importance of departments and ministers to safeguard the rights of the House of Commons. He said:

Thus, the issue of denying to members information that they need to do their work has been the key consideration for the Chair in reviewing this particular question of privilege. To deny to members information concerning business that is about to come before the House, while at the same time providing such information to media that will likely be questioning members about that business is a situation that the Chair cannot condone.

Even if no documents were given out at the briefing, as the hon. Government House Leader has assured the House, it is undisputed that confidential information about the bill was provided. While it may have been the intention to embargo that information as an essential safeguard of the rights of this House, the evidence would indicate that no effective embargo occurred.

In this case, it is clear that information concerning legislation, although denied to members, was given to members of the media without any effective measures to secure the rights of the House.

He concluded that there was a *prima facie* case of contempt of the House.

I quoted that passage because I believe that Speaker Milliken has demonstrated the wide meaning that may be given to contempt, in order to protect the institution of Parliament.

It is clear from the text and from the precedents cited that a minister or minister's department that ignores the rights and privileges of Parliament, be it the House of Commons or the Senate, does so at his or her own peril. It is clearly a contempt of Parliament and specifically the Senate for Minister Caplan to behave as though the passage of Bill C-11 by the Senate and subsequent Royal Assent were irrelevant. If we are to carry out our work effectively as parliamentarians, we cannot be the object of a minister who believes that the Senate is irrelevant and the Constitution is irrelevant.



Therefore, I believe that my privileges as a senator and the privileges of all senators have been breeched by this action, which I think should be properly categorized as a contempt of Parliament. I ask His Honour to find a *prima facie* case accordingly.

**Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, the Leader of the Opposition has raised a matter of privilege. Matters of privilege are, in my view, the most important matters that we ever discuss as parliamentarians. I thank the Leader of the Opposition for treating this matter with such seriousness.

I conducted four-hour seminars with the new senators on Monday morning. I told them that one of the things that sometimes gets confused in parliaments is the difference between a point of order and a matter of privilege, and that they should never confuse those two.

Senator Lynch-Staunton has raised this afternoon an extremely important matter, a matter that he raised yesterday. We could argue, I suppose, whether the timing would have been more appropriate yesterday. However, as the honourable senator said in his opening statement earlier today, he was not aware of potential violation of privilege until 11:30. At that point, the timing set out in our rules would have made it impossible for him to raise the matter at that time. So he has raised it today. I will not make an argument about appropriate timing because I think in this case it is quite irrelevant.

What is extremely relevant, though, is the matter of a *prima facie* case. Honourable senators, when I left the chamber yesterday, I was extremely concerned about the questions raised by Senator Lynch-Staunton. I had been given a briefing note and I used that briefing note in Question Period, as I am sure Senator Lynch-Staunton knows. To my mind, I still lacked sufficient information on this particular incident.

That is why Minister Caplan and I spoke last evening. We did, in the first instance, speak about the potential of her making the statement that the honourable senator has referred to. However, today, as many of you know, is Yom Kippur, the holiest day of the Jewish calendar, and Minister Caplan is in Toronto with her family, in synagogue, participating in that particular day of atonement. That is why she is not in Parliament and that is why no statement was made.

We then agreed, therefore, that she would communicate to me by letter outlining why it was not a violation of the provisions of Bill C-11 for her to be taking the kinds of actions that she did. I read that letter into the record during the Question Period this afternoon. I am prepared to table that letter, but, unfortunately, at the present time I only have it in one language; I do not have it in French. I have given Senator Lynch-Staunton a copy of the letter. I am pleased to give it to the Speaker or to any other senator individually, but I am reluctant to table it until I have it in both official languages. If I have permission, I will do that on Tuesday, when I have it in both languages.

The letter is very clear. Minister Caplan outlines the new authorities she is going to get under Bill C-11 as the Minister of Immigration. She indicates clearly that there are new tools, and that statement is very similar to the statements that she made on September 17, 19 and 25, that she would indeed get new tools under Bill C-11. That is why we have sent that bill to committee. I know the committee will give it very careful study.

Minister Caplan indicates that she has tools presently available to her. She particularly quotes the legislative authorities under sections 19, 20 and 46.01 of the current Immigration Act. Persons found to be security threats through this intensified screening process will be dealt with under the current rules. Therefore, I do not believe there is a *prima facie* case in this instance for a matter of privilege.

As the honourable senator indicated, a great deal of pressure has been placed on the ministers. Her comment was made, I understand, in her car when a microphone was thrust in her window, and she now recognizes that it was not an appropriate comment for her to have made.

Having said that, the legislative authority by which the actions are now taking place are already in our Immigration Act. She already has the authority to act as she is acting. Therefore, there is no question of privilege here. The honourable cabinet minister has assured me that there will be no actions taken under Bill C-11 until Bill C-11 has passed this chamber and has been given Royal Assent.

**Senator Lynch-Staunton:** The question before His Honour is not whether the minister is acting under parliamentary authority or not. The question is whether she said that she would exercise some of the powers that would be granted to her if Bill C-11 were passed before Bill C-11 was passed. That is the question. If her current actions are covered by current legislation, that is irrelevant. What is relevant is what she has announced publicly and has not retracted. Of course, I honour her commitment to her family on this day. However, I am sorry to see even in the letter written yesterday that she referred to her remarks as anything but confusion caused by media reports.

• (1520)

There is no confusion here. Unfortunately, it is too clear. What she said is on the record. Until it is taken off the record, changed, amended or whatever, we have before us a minister of the Crown telling the Senate of Canada and the Crown, "Whatever you do with my bill, I have given myself the authority to exercise all or part of it, whether it is passed or not."

**Hon. Anne C. Cools:** Honourable senators, I have just received a copy of the letter that Minister Caplan wrote to Senator Carstairs. I was trying to capture the attention of Senator Carstairs so that, perhaps, she could read the letter again, so that it would form part of the record of this debate. Some of us were not in the chamber when she first read it. I am now attempting to read the letter as quickly as I can.

Essentially, the letter says that the minister admits that she has not acted, perhaps, to the highest standard that might have been expected of her. My eyes are falling to the very last paragraph, which states, in part:

I regret any confusion that media reports of my comments may have created with respect to current legislative authorities and the new provisions of Bill C-11. Let me take this opportunity once again to wish you and your colleagues well in your study of this important legislation.

I would like to commend Senator Carstairs as well for rising to speak to this matter because the custom of Parliament and the custom of this place used to be that, on matters of privilege, the leader should speak and should lead. For many years, we have had situations in this chamber when that has not been the practice. I am pleased to see Senator Carstairs meeting this challenge.

Honourable senators, we are now in an interesting situation because the role of the Speaker of the Senate in this entire matter is really quite limited. It is not up to the Speaker to determine whether or not the privileges of the Senate or any individual senator have been breached. His role is extremely limited. It has to do with a *prima facie* question of privilege to determine the urgency of the debate so that a debate can take place and take precedence over other matters. For those senators who are quite new at this business, it should be crystal clear that His Honour's role is not to make a decision on the substance of the question; the substance of the question is one that belongs to the Senate as a whole.

Honourable senators, "contempt of Parliament" and "breach of privilege" are two terms that we have heard quite extensively. They have to do with an area of activity that has been grossly negligent, in particular in this chamber, in the last 40 to 50 years. We must be mindful that a contempt of Parliament is one of the unique offences in which a finding and an accusation are one and the same. Thus, it is a troubling and difficult subject matter.

On the surface, Minister Caplan essentially said in the interview, a copy of which I was able to secure, that, yes, she needs an authority from Parliament; however, knowing that she needs that authority, she is quite prepared to ignore it and to act without it. Those are very strong words.

I should like to read from the transcript of the CBC radio interview, which is entitled "Security at the Border." The interview was conducted by a Mr. Peter Armstrong, and I think it has been cited already. He said:

Bill C-11...recently received Cabinet approval but it's still before the Senate. Caplan says the measures outlined in that bill need to be implemented now.

Minister Caplan is quoted as saying:

We have operationalized the policy, which was approved by Cabinet, Bill C-11.

Obviously, according to this interview, Minister Caplan believes that cabinet's approval of a policy is sufficient in and of itself.

The reporter continues:

Even though you do not have a law in place?

Minister Caplan responded:

That's correct.

The reporter continued:

So isn't that..., I mean if there's..., isn't there a legal...,

Minister Caplan responded:

You think that's a bad idea?

The reporter said:

No. I'm asking you, isn't there a legal...,

Minister Caplan replied:

I'm doing it.

There is a very clear statement here from Minister Caplan, and it is a very strong statement. I am of the opinion that Minister Caplan should be given the proper opportunity to give proper explanation of this. In the interests of magnanimity alone, in the interests of justice alone, and in the interests of proper relations between a minister and Parliament, I believe the minister should give a proper explanation.

The minister should be allowed to give a proper explanation. On first reading, it would appear that the minister is saying that she really does not believe that the Senate's input or agreement is necessary. I cannot help but believe that this is not the case. If this sounds possible, then, yes, Senator Lynch-Staunton has a very valid point.

As I have said in many interviews some months ago on behalf of Minister Hedy Fry, I cannot believe there would be any deliberate attempt on the part of the minister to mislead or to act improperly. I want to be recorded today as saying that.

There has to be an explanation, and there is an explanation. We should proceed in a manner as to give the minister an opportunity to make a full and sufficient explanation. There are some who might say, "She can give the explanations later," but I should like us, if at all possible, to find a way in this proceeding to deal with it, if we can. Perhaps the debate could be adjourned today in order that we could speak about it again next week, on Tuesday. We could then examine the matter a little more fully. This is one of the problems with this rule about the earliest opportunity.



When I first read this document, I concluded that the minister was acting under some authority other than the bill. At first I thought that, obviously, the problem has to be that the minister is relying on other elements of the Royal Prerogative or the law of prerogative to be able to take the initiatives and the actions that she is taking. In other words, my assumption was that the minister would not set out to invoke the anger and the wrath of members here, that she had to have been relying on another authority, and that she should have an opportunity to tell us that. I am still of that opinion.

I am not asking in any form or fashion for Senator Lynch-Staunton to withdraw his question of privilege or to retreat from it. However, I am prevailing upon the members of this chamber to slow this down just a little bit so that we may bring a bit more information, knowledge and consideration to the debate.

• (1530)

The issues are of such great fundamental importance, particularly when you understand that section 18 of the BNA Act gives members of the Senate an uncontroverted, critical and wholesale say in such matters. Section 18 of the BNA Act states clearly:

The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the Members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities, and powers shall not confer any privileges, immunities, or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland, and by the Members thereof.

Very clearly section 18 is a reception clause, by which the BNA Act received into Canada the powers and privileges that are currently held by members of Parliament. There can be no doubt that members of the Senate and that the Senate as a whole have an undisputed and uncontroverted right to vote on Bill C-11 before the minister or any department of government may attempt to implement a single one of its provisions.

In addition to section 18, honourable senators should be mindful that every single minister of the Crown, in addition, has a duty within our constitutional system to adhere to the Constitutional requirement that there be harmony and conformity between the two Houses of Parliament. In other words, a fundamental premise of our constitutional system is that every minister of the Crown is expected to get concurrence between the two Houses on every critical policy issue. That is why, for example, it is the law of the land as contained in the Constitution and in the law of Parliament that all bills, to become law, must have so many readings and the agreement of the House of Commons and then vice versa.

I will move quickly to the last point about the Crown and the prerogative, and Senator John Lynch-Staunton's statement about the minister ignoring the Crown. Section 17 of the BNA Act tells us that:

There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Clearly, again, the Queen is a part of Parliament, so a minister cannot rely on the Royal Prerogative or on the powers given to ministers of the Crown through the law of the prerogative, as against the law of a statute being a piece of legislation that has received Royal Assent or is pending Royal Assent from the Queen.

However you cut it, honourable senators, the matter is important. The matter is deserving of members' study but, honourable senators, I cannot help but believe that, as valid as Senator John Lynch-Staunton's point is, and I do think his question is very valid, we should not rush in any form or fashion into this. It seems to me that if the minister has been unduly arrogant, or unduly insensitive, or unduly thoughtless we should deal with this as a political problem and not as a legalistic problem invoking the punitive powers of Parliament.

I do not know what this means, whether someone should take the adjournment of the debate as we figure out how to proceed, but those are my submissions, in summary.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, you have only one decision to take for the time being. What Senator Cools has laid out is the second stage of the process.

First, you have in front of you, in addition to speeches, the transcript of a public conversation between a journalist and a minister. Whether or not the latter relied on the royal prerogative is something we will debate after you have first decided whether, *prima facie*, she breached a privilege.

The expression "*prima facie*" is very important. Was what the minister said correctly reported? Is the transcript inaccurate or incomplete? This is what the rules mean by "*prima facie*". The rule reads as follows:

The Speaker shall determine whether a *prima facie* case of privilege has been made out.

Therefore, you need only ask yourself whether the minister's words seem justified.

Second, if so, we can talk about the minister's motivation. Was she forced to make this statement? What was her state of mind? What was her intention? We will have to answer these questions later. For the time being, you need only ask yourself whether, in light of her conversation with a journalist, the minister has breached the privilege of this institution.



[English]

**Hon. Nicholas W. Taylor:** Honourable senators, I wish to add my comments because I have a great deal of sympathy for Senator Lynch-Staunton's motion. As you recall, I was chairman of the committee that was setting up a sustainable development area, and I was quite chagrined about it. When we reported it, we slapped the hands of the energy minister. Nevertheless, we complained about the fact that he had gone ahead with the sustainable development \$400 million hiring of the directors before the bill had gone through the house. Even the house leader at that time — the same house leader as now — was worried about it.

I have a great deal of sympathy for Senator Lynch-Staunton, but as I said, I know the speaker has to decide whether there is *prima facie* evidence of privilege. I thought that perhaps I would refer him or his researcher to page 149 of Erskine May, which mentions that this, of course, is not in support of Senator Lynch-Staunton. It states that any privilege moved against an officer or member of a house has to come from that house itself. In other words, basically, my interpretation of that paragraph, is that the House of Commons could not discipline the House of Lords on privilege and vice versa, The House of Lords cannot discipline the House of Commons on privilege. There is a question of whether you have any authority.

• (1540)

On page 117 of Erskine May there is a term I had not seen before, which is "constructive contempts." One could argue that the cabinet minister in the other House, by proceeding before the bill receives Royal Assent in the Senate, could be in constructive contempt of our house. Therefore, I submit to His Honour, when researching the subject, that these are two items he might consider: first, whether we have the authority to declare that a member of the other House is under privilege and, second, whether we can claim a constructive contempt of our house because the minister made that announcement.

**Hon. Bill Rompkey:** Honourable senators, I simply wish to draw the attention of the Senate to paragraph 31(3) of Beauchesne's, which reads:

Statements made outside the House by a Member may not be used as the basis for a question of privilege.

I also wish to draw the attention of the Senate to the fact that honourable senators have been quoting from a journalistic transcript.

**Senator Lynch-Staunton:** No. There is a sound recording.

**Senator Rompkey:** That remains to be seen. However, I make the point that all honourable senators have been in politics long enough to know that what we say to a journalist one day is not necessarily what appears in the story the next day. I have gone through that process many times. When this institution was under siege, Senator Nolin and I spent a whole year talking to a reporter whose name I shall not bother to mention today. The

stories that appeared the next day had absolutely no relation whatsoever to the statements I made.

Honourable senators, we must be careful about bringing stories here as evidence, particularly in view of paragraph 31(3).

**Senator Lynch-Staunton:** Honourable senators, if I may be allowed to make a correction, what has been tabled is an exact transcript of a radio broadcast which was on the CBC national news yesterday morning at around 8:15. If the honourable senator wishes, I can send him a copy of the tape.

**Senator Rompkey:** Would that be a full tape, part of the tape or an edited tape?

**Senator Carstairs:** Honourable senators, we must be very careful here. The breach, if there is a breach, is whether the minister has taken action without legislative authority. If she had done that, then clearly she would be in violation of our privileges as members of Parliament. However, in her letter, she is very clear. Her letter states that she has the legislative authority to do what she is doing. Her hope, should we in our wisdom give her Bill C-11, is to get more legislative authority from Bill C-11 to do more things. That is very clear in her letter, which I have shared with senators. At present, the actions she is taking are provided for under the current immigration law. Therefore, in my view, there is no *prima facie* case of a matter of privilege.

I would also reiterate what Senator Rompkey said. Beauchesne's is clear in paragraph 31(3) that statements made outside of the House are not the basis for a matter of privilege. However, if there is a matter of privilege, it is certainly based on whether she has taken an action that she cannot take. Her letter to me is clear. She quotes the sections that give her the legislative authority, under the present act, by which she can take the steps that she is taking.

**Senator Lynch-Staunton:** Let us not confuse the issue. At least three times in the House of Commons the minister said she would not proceed with any of the procedures arising out of the clauses of Bill C-11 until it is passed. On CBC radio — an exact transcript of which has been tabled that the honourable senator can compare with the tape — the minister said words to the effect that whether she gets Bill C-11 or not, she will apply today whatever is in this bill that she may need. If that is not contempt, I do not know what contempt would be.

**Hon. Lowell Murray:** Honourable senators, I have one point. Senator Rompkey has opened up a new issue, which I hope His Honour will consider and perhaps say a word on in the course of his ruling.

Senator Rompkey quoted Beauchesne's — and I do not have the paragraph in front of me — to the effect that statements made by a member outside the House are not grounds for a question of privilege. I emphasize the words "by a member." I believe that means if a member of the Senate makes a statement outside the house, it is not grounds for a question of privilege in the house. It certainly would not apply to a situation such as the Leader of the Opposition raised today.

**Senator Rompkey:** She is a member of the House.

• (1550)

**Senator Murray:** She is not a member of this house. She is a minister of the Crown, and she appears to have stated her intention to implement provisions of a bill before that bill is enacted into law.

Honourable senators, my point is that I think my friend has opened up a new issue and I believe it is not applicable. Were it applicable, we would never be able to raise a question of privilege on the basis of anything a minister of the Crown had said in the course of his or her duties with regard to the legislative process. That simply does not make sense.

In any case, I believe His Honour understands the points that both Senator Rompkey and I have been making and, *obiter dictum* in his ruling, he will take the occasion to clarify that matter for us.

**Hon. A. Raynell Andreychuk:** Honourable senators, I will enter the debate on the points Senator Rompkey made about proceeding on the basis of a newspaper or radio announcement. I should remind this chamber that both Senator Bacon and I raised questions of privilege at one point based on a newspaper article. The ruling that His Honour needed to make at that time was whether there was a prima facie case. The second stage was whether there actually was a breach and the circumstances surrounding the breach. Filing a newspaper document in this place was accepted in two cases as being within our rules.

**Senator Rompkey:** That may not have been good judgment, though.

**The Hon. the Speaker:** If no other senator wishes to participate in the debate on the question of privilege raised by Senator Lynch-Staunton, I thank honourable senators for the arguments that have been presented. I draw attention to rule 43(12) of the *Rules of the Senate*, which indicates that when the Speaker makes a ruling on a matter such as this:

...the Speaker shall state the reasons for that ruling, together with references to any rule or other written authority relevant to the case.

A number of authorities have been quoted, and we have a record that has been referred to in terms of the substantive presentation on the question of privilege. I should like an opportunity to review both the authorities and the record carefully before ruling on the question of a prima facie case. Accordingly, I take the matter under consideration to and will return with a ruling at the earliest possible time.

## ABORIGINAL PEOPLES

### COMMITTEE AUTHORIZED TO STUDY ISSUES AFFECTING URBAN ABORIGINAL YOUTH

**Hon. Thelma J. Chalifoux,** pursuant to notice of September 26, 2001, moved:

That the Standing Senate Committee on Aboriginal Peoples, pursuant to the input it has received from urban Aboriginal people and organizations, be authorized to examine and report upon issues affecting urban Aboriginal youth in Canada. In particular, the Committee shall be authorized to examine access, provision and delivery of services; policy and jurisdictional issues; employment and education; access to economic opportunities; youth participation and empowerment; and other related matters;

That the Committee report to the Senate no later than June 28, 2002; and

That the Committee be authorized, notwithstanding customary practice, to table its report to the Clerk of the Senate if the Senate is not sitting, and that a report so tabled be deemed to have been tabled in the Senate.

Motion agreed to.

[Translation]

## ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday next, October 2, 2001, at 2 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, October 2, 2001, at 2 p.m.



**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
 (1st Session, 37th Parliament)  
**Thursday, September 27, 2001**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd (01/06/06)	01/06/07		
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01



[illegible]

C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs					
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01

## COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5			
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology					

S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament			
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15 <i>Bill withdrawn pursuant to Commons Speaker's Ruling</i> 01/06/12
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources			
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications			
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12					
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		Subject-matter 01/04/26 Social Affairs, Science and Technology			
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry			
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications			
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19					



## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of Incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	
S-28	An Act to authorize Centas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	

**SENATORS' STATEMENTS****Question of Privilege**

Comments by Minister of Citizenship and Immigration— Notice. Senator Lynch-Staunton .....	1314
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**World Heart Day**

Senator Morin .....	1314
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**Fiftieth Anniversary of Stratford Festival**

Senator LaPierre .....	1315
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**Police and Peace Officers' National Memorial Day Ceremony**

Senator P��pin .....	1315
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**ROUTINE PROCEEDINGS****Study on Economic Development of National Parks in North**

Report of Aboriginal Peoples Committee Tabled. Senator Chalifoux .....	1315
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**QUESTION PERIOD****Citizenship and Immigration (Bill C-11)**

Comments by Minister Regarding Immigration and Refugee Protection Bill. Senator Carstairs .....	1316
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**Terrorism**

Initiatives to Guard Against Attacks. Senator Comeau .....	1316
Senator Carstairs .....	1316

**Transport**

Airport Security—Request for Upgraded Training. Senator Di Nino .....	1317
Senator Carstairs .....	1317
Hours of Work Regulations for Long-Distance Trucking. Senator Atkins .....	1318
Senator Carstairs .....	1318

**Agriculture and Agri-Food**

Problems in Farm Community. Senator Gustafson .....	1318
Senator Carstairs .....	1318

**Customs and Revenue Agency**

Meeting Between Minister and United States Officials— Changes in Practices and Procedures. Senator Bolduc .....	1319
Senator Carstairs .....	1319

**Solicitor General**

Release of Personal Information on Students by Universities to Police and Government Agencies. Senator Wilson .....	1319
Senator Carstairs .....	1319

**Heritage**

Museum of Civilization Decision to Cancel Exhibit by Arab Community. Senator Prud'homme .....	1319
Senator Carstairs .....	1320

**Delayed Answers to Oral Questions**

Senator Robichaud .....	1320
-------------------------	------

**Justice**

Official Languages—Court Action by Commissioner Involving Quebec Bill 171—Intervention by Federal Government. Question by Senator Gauthier. Senator Robichaud (Delayed Answer) .....	1320
---	------

**North Atlantic Treaty Organization**

Meeting of Heads of State—Request for Comments by Prime Minister—Statement of Secretary General on Conflict in Macedonia. Question by Senator Nolin. Senator Robichaud (Delayed Answer) .....	1320
---	------

**Answer to Order Paper Question Tabled**

Customs and Revenue Agency—Rules and Restrictions Concerning Duty-Free Shops. Senator Robichaud .....	1322
--	------

**L'assembl  e parlementaire de la francophonie**

Canadian Delegation to Meetings of July 6 and July 8 to 10, 2001— Reports tabled. Senator Losier-Cool .....	1322
---	------

**The Senate**

Introduction of Pages. The Hon. the Speaker .....	1322
---	------

**ORDERS OF THE DAY****Immigration and Refugee Protection Bill (Bill C-11)**

Second Reading. Senator Andreychuk .....	1323
Senator Robichaud .....	1325
Referred to Committee. ....	1325
Senator Cordy .....	1325
Senator Di Nino .....	1326
Senator Carstairs .....	1326

**Visitors in the Gallery**

The Hon. the Speaker .....	1326
----------------------------	------

**Status of Legal Aid Program**

Inquiry—Debate Continued. Senator Hubley .....	1326
--	------

**Question of Privilege**

Comments by Minister of Citizenship and Immigration. ....	1327
Senator Lynch-Staunton .....	1327
Senator Carstairs .....	1330
Senator Cools .....	1330
Senator Nolin .....	1332
Senator Taylor .....	1333
Senator Rompkey .....	1333
Senator Murray .....	1333
Senator Andreychuk .....	1334

**Aboriginal Peoples**

Committee Authorized to Study Issues Affecting Urban Aboriginal Youth. Senator Chalifoux .....	1334
---	------

**Adjournment**

Senator Robichaud .....	1334
-------------------------	------

**Progress of Legislation**







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CANADA

# Debates of the Senate

1st SESSION

• 37th PARLIAMENT

• VOLUME 139

• NUMBER 55

OFFICIAL REPORT  
(HANSARD)

**Tuesday, October 2, 2001**

THE HONOURABLE DAN HAYS  
SPEAKER

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry,  
and Senators serving on Standing, Special and Joint Committees.



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Tuesday, October 2, 2001

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### QUESTION OF PRIVILEGE

##### NOTICE

**The Hon. the Speaker:** Honourable senators, pursuant to rule 43(3) of the *Rules of the Senate of Canada*, the Clerk of the Senate received earlier today notice of a question of privilege from Senator Cools. In accordance with rule 43(7), I will now recognize the Honourable Senator Cools.

**Hon. Anne C. Cools:** Honourable senators, pursuant to rule 43(7) of the *Rules of the Senate of Canada*, I give oral notice that I will rise later this day to address a question of privilege.

It is my intention to raise a question of privilege with respect to certain actions and words in the Senate debate of Thursday, September 27, 2001, which, as honourable senators will recall, was a debate on the question of privilege regarding particular statements made by the Minister of Citizenship and Immigration, Elinor Caplan.

Honourable senators, I will be asking the Speaker of the Senate to make a *prima facie* ruling, and if he so does, I am prepared this day to make a substantive motion for a debate on the subject matter.

**The Hon. the Speaker:** Pursuant to rule 43(8), consideration of whether the circumstances constitute a question of privilege shall take place not later than eight o'clock p.m. or immediately after the Senate has completed consideration of the Orders of the Day for that sitting, whichever comes first. I now continue with statements by senators.

[Translation]

#### INTERNATIONAL YEAR OF VOLUNTEERS

**Hon. Marisa Ferretti Barth:** Honourable senators, the year 2001 has been declared International Year of Volunteers by the United Nations. A full year, a clear sign of the measure of our appreciation of volunteers.

As I see it, volunteerism is an act without restrictions. Indeed, it is a gift from the heart, a gift of oneself. It is surpassing oneself personally to contribute to a cause, or causes that are important to us. Volunteering is first and foremost an act of love.

There are 175,000 volunteer organizations in Canada and 7.5 millions volunteers. Did you know that volunteers devote more than one billion hours to their fellow human beings and to their communities? This represents approximately 578,000 full-time positions.

Volunteerism is a significant sector, a sector that is often highly visible. Think of the brave first-aid workers who gave of their time during the September 11 tragedy.

Volunteers are indispensable to community organizations that meet the growing needs of the community and institutions that are all too often overburdened. Volunteers give of their time and energy in order to improve the welfare of others in their community.

It is vitally important to recognize the invaluable contribution of all those who work to improve their communities. Unfortunately, all too often their contributions go unacknowledged. Let us not forget that volunteers are the silent motor of our society. We must learn to recognize the true value of their contributions.

• (1410)

I should like to offer my sincerest thanks to all volunteers for their dedication and their contributions for a better world. I invite all those who have yet to experience the joys of volunteering to experience it. It will add a new dimension to their lives and they will experience that those who give know what it is to be rich.

[English]

#### THE LATE CAROL ANNE LETHEREN

**Hon. J. Trevor Eyton:** Honourable senators, earlier this year Canadian amateur sports lost one of its most competent and passionate supporters. I am speaking here of Carol Anne Letheren, who, at the time of her death, was Chief Executive Officer of the Canadian Olympic Association.

Looking at her resumé, as I had occasion to do recently, I was struck by just how much Carol Anne had done during her lifetime. She was what we call a mover and a shaker; one of those people who make a difference in whatever they do.

The list of Carol Anne's accomplishments and activities is impressive. In her youth, she was a student body president, an Ontario badminton champion, and later a world-class gymnastics judge. In 1988, she was appointed Chef de Mission for Canada's 1988 Olympic team. I should note that Carol Anne was the first female Chef de Mission in the history of the Olympic games. She was also the person who, during those same Olympics, had the task of telling Ben Johnson that he had been disqualified and then had to ask him to return his gold medal.

In addition to sports, Carol Anne Letheren left her mark in the fields of academia and business. She held bachelor's degrees in arts and physical education, a master's degree in business administration, and an Honorary Doctorate of Laws. For many years, she was a distinguished member of the faculties at the Universities of Toronto and York. Later, she went into business as senior partner and co-owner of a Toronto marketing company.

Sports was always Carol Anne's primary life interest. She was a member of the International Olympic Committee, Vice-President of the Commission for the International Olympic Academy and Olympic Education and a member of the Coordinating Commission for the 2002 Winter Games in Salt Lake City. She also sat on the Site Evaluation Commission for the 2004 Olympic games to be held in Athens. All of this, in addition to being involved on numerous sports-related boards and committees, holding various coaching and officiating positions and receiving a host of awards, from Official of the Year to induction into the University of Toronto Sports Hall of Fame.

At the time of her unfortunate death, the then President of the Canadian Olympic Association, Bill Warren, characterized Carol Anne as the personification of excellence, respect, fairness, teamwork, leadership and, most important — especially for those who knew Carol Anne — fun. The association's current president, Michael Chambers, echoes those sentiments.

Honourable senators, it can be fairly said that with the death of Carol Anne Letheren, Canada has lost a truly remarkable citizen who, by her deeds, continues as a glowing inspiration for us all, and especially young women.

### MOTHERS AGAINST DRUNK DRIVING

**Hon. Marjory LeBreton:** Honourable senators, this past weekend I participated in the national chapter leadership conference of MADD Canada. The horrific events of September 11 in New York, Washington and Pennsylvania had particular relevance to the attendees who, because of their own personal experiences as victims, felt a particular bond with the totally innocent victims of that great tragedy in the United States. Many told me that the shock of the death of their loved ones came back in ways they had not expected. Within this foreboding atmosphere, we were faced with the reality of dealing with what is still Canada's number one tragedy: innocent people being killed by people who drive while impaired.

Honourable senators, impaired driving remains the leading criminal cause of death in Canada, claiming over three times as many lives per year as all other forms of homicide combined.

Canada lags far behind most comparable democratic countries in reducing alcohol-related traffic deaths and injuries, even though many have a far higher per capita rate of alcohol consumption. Those countries have succeeded to a far greater extent in impelling their populations to refrain from drinking and driving. Their laws are deterring impaired drivers and protecting the public while ours deter police and prosecutors and often protect impaired drivers from criminal sanctions.

Millions of Canadians continue to drink and drive. In the 1999 national opinion poll on drinking and driving, 19.3 per cent of licensed drivers said that they had recently driven within two hours of drinking. In the author's words, when applied to the entire population of licensed drivers, it shows that over four million Canadians admit to driving after drinking. Moreover, an estimated 2.3 million Canadians drove in the past year, when they themselves thought they were over the legal limit. Thus, there are tens of thousands of impaired drivers on Canadian roads each night, and very few ever come to police attention. It has been estimated that only one in every 445 impaired driving trials in Canada result in a criminal conviction. The prosecution of impaired driving cases has become extremely challenging. We only have to read our newspapers every day to know this. While holding the police and prosecutors to exacting standards of proof, the courts have interpreted the law to unduly narrow the offences, and recognized defences appear to lack any air of reality.

Figures from the Canadian Centre for Justice statistics indicate that, depending on the offence, only 23 to 61 per cent of impaired driving charges between 1994 and 1998 resulted in a guilty disposition. To make matters worse those charged with the most serious offences are the least likely to be convicted. While the conviction rate for driving with a blood alcohol concentration above 0.08 was 61 per cent, the rate dropped to only 33 per cent for impaired driving causing bodily harm and 23 per cent for driving causing death. The government, as we all know — since we in the Senate were part of it — amended the Criminal Code in 1999 and 2000. These amendments focused exclusively on increasing penalties, but, unfortunately, we ignored proposals to lower the Criminal Code blood alcohol levels to 0.05, to enhance police enforcement powers, to clarify and redefine some offences and to rationalize sentencing.

Honourable senators, without substantive reform of the Criminal Code, the annual toll of alcohol-related traffic deaths and injury will continue unabated. Responsible Canadians will continue to be exposed to needless risks that are unacceptable to most of our counterparts in the international community. Consequently, MADD Canada, and I believe most of us, believe that the 1999 and 2000 amendments must be viewed as only the beginning of the process of reforming federal impaired driving laws.



## RESPONSE OF GOVERNMENT TO TERRORIST ATTACKS ON UNITED STATES

**Hon. David Tkachuk:** Honourable senators, last night, I watched the Prime Minister on film clips on CTV news say that we will have to sacrifice some of our sovereignty to achieve security. He was referring to the need to harmonize our border security with that of the United States so that our mutual border can be safely open for business and trade. The next film clip showed Joe Clark asking questions in the House of Commons and trying vainly to understand the new security committee announced by the Liberal government and chaired by the only Liberal cabinet minister to speak cogently about the repercussions of the September 11 act of war, Foreign Affairs Minister John Manley. The Prime Minister dismissed Mr. Clark's questions with his usual, "The opposition is trying to take advantage of the terrorists' actions for political gain." Both these occasions made it clear to me why the Liberal government has been acting in such a strange manner in the wake of what clearly was an act of war by terrorist groups.

Honourable senators, I do not think the Prime Minister of our country understands the consequences of what happened when four planes bound for points west turned sharp east to wreak their havoc. Our weak response showed that we have already suffered serious loss of our sovereignty. Our neglect of our military and our Coast Guard and our rather insensitive reaction to the tragedy was laid bare for the country and the world to see. I am not proud of this.

Strengthening our border security, clarifying our policy on refugees and working with our neighbours to the south to keep out people who do not share our values is the act of a nation that increases its sovereignty not, as the Prime Minister said, decreases it. Not being safe, not feeling safe and not trusting our institutions to protect us are signs of a nation losing its abilities to govern itself. When citizens feel that way or think that way, they look elsewhere for someone to provide the safety and trust. Canadians realize this and, despite the many talking heads to the contrary, remain sympathetic to the U.S. position calling for a war on terrorism and of using military power to achieve the goal of winning that war. We are, in the main, allies, and we understand that this act cannot be explained in a rational manner. This was an act of terrorism and Canadians knew it five minutes after it happened. They did not need time to issue a response. Their hearts and heads were in sync and our government's was and is not.

## ROUTINE PROCEEDINGS

### CITIZENSHIP AND IMMIGRATION

#### LETTER FROM MINISTER TABLED

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I have the honour to table, in both official languages, a copy of the letter from the Minister of Citizenship

and Immigration to which I referred at the last sitting of the Senate.

[Translation]

## OFFICIAL LANGUAGES

### SECOND REPORT OF JOINT COMMITTEE GOVERNMENT RESPONSE TABLED

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table the government response to the second report of the Standing Joint Committee on Official Languages, entitled "Broadcasting and Availability of the Debates and Proceedings of Parliament in both Official Languages," as introduced in the Senate on May 2, 2001.

## ADJOURNMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate, and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until tomorrow, Wednesday, October 3, at 1:30 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

[English]

## BUSINESS OF THE SENATE

### ROYAL ASSENT BILL—MOTION TO WITHDRAW ADOPTED

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, we have had discussions with the leadership on the other side. The government is prepared to introduce a bill relating to the procedure for Royal Assent. I am ready to introduce the bill today if the Leader of the Opposition would be inclined to seek the withdrawal of his bill. That would help us to avoid confusion and maintain a coherent Order Paper.

**The Hon. the Speaker:** Honourable senators, I will call on Honourable Senator Lynch-Staunton with a request for leave.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I never thought I would be the unwitting co-author of a government bill, but then, in this life, the unexpected can be more the expected.

I will resist any comments except to say that, with leave of the Senate and notwithstanding rule 58(1)(f), I move, seconded by Senator Kelleher:



That the Standing Committee on Rules, Procedures and the Rights of Parliament be discharged from considering Bill S-13, An Act respecting the declaration of Royal Assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament; and

That the said Bill be withdrawn.

I hope the government leader will also agree that if I am dissatisfied with the bill she tables, she will give me the same consideration and withdraw her bill so I can reintroduce mine.

**Senator Carstairs:** Honourable senators, I must say at the outset that Senator Lynch-Staunton has been so cooperative that I am sure he will get anything he wants.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill withdrawn.

## ROYAL ASSENT BILL

### FIRST READING

**Hon. Sharon Carstairs (Leader of the Government):** presented Bill S-34, respecting Royal Assent to bills passed by the Houses of Parliament.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Carstairs, bill placed on the Orders of the Day for second reading two days hence.

## ACCESS TO CENSUS REPORTS

### PETITION

**Hon. Lorna Milne:** Honourable senators, I have the honour to present 877 signatures from Canadians in the provinces of B.C., Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Newfoundland and Nova Scotia who are researching their ancestry, as well as signatures from 148 people from the United States and 8 from Ireland who are researching their Canadians roots. A total of 1,033 people are petitioning the following:

Your petitioners call upon Parliament to take whatever steps necessary to retroactively amend the Confidentiality-Privacy clauses of the Statistics Acts since

1906, to allow release to the Public after a reasonable period of time of Post 1901 Census reports starting with the 1906 Census.

These signatures are in addition to the 10,677 I have presented in this calendar year. I have now presented petitions with 11,710 signatures to this Thirty-seventh Parliament and petitions with over 6,000 signatures to the Thirty-sixth Parliament, all calling for immediate action on this very important matter of Canadian history.

## QUESTION PERIOD

### THE SENATE

#### HASTE OF HEARINGS OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE ON IMMIGRATION AND REFUGEE PROTECTION BILL

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I must get up and test the government leader's generous sentiments of just a few minutes ago.

While testifying before the Social Affairs Committee yesterday, the assistant deputy minister for policy from the Department of Citizenship and Immigration indicated that proper implementation of Bill C-11, the immigration bill now before the committee, will require regulations that are not expected to be in final form before the spring of 2002 at the earliest. Will the minister not agree that this removes any urgency which was invoked to force the committee to compress its hearings into only four days when, under normal circumstances, a bill of such importance — certainly an importance given by the government — would require some four weeks to allow the proper, meticulous examination the Social Affairs Committee gives to every piece of legislation? The committee is being forced into an unseemly schedule to meet a deadline that is at least six months away, by the admission of a government official herself. Will the government release the committee of the obligation imposed upon it to hasten hearings in such a manner that they be completed before the end of this week?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for that question. I must say that I was disturbed and somewhat shocked to read the newspaper accounts of the committee hearing. I think all of us recognize that there was a certain amount of pressure to get this bill through as quickly as possible. I spoke with the Minister of Immigration this morning. I asked her why we are being asked to pass this bill as quickly as we possibly can when it seems that it will not come into force and effect until May. Some witnesses, I understand, even said July of 2002. The response I received is the following: The regulations are presently being drafted and I am assured they are being drafted with some speed.

• (1430)

However, when the bill is passed and receives Royal Assent, the regulations will then need to go through the normal regulatory process; they will need to be published in the *Canada Gazette*. In other words, we will need to reach out to the stakeholders and ask those stakeholders if, in fact, the regulations meet not only the letter of the law but the spirit of the law as they see it, and that will take a number of months. The longer we delay the bill in this chamber, the longer it will take for those regulations to go through the normal regulatory process. If we delay the bill by a month, then the implementation of the full bill will be delayed by an additional month. It is, therefore, incumbent upon us to act as quickly as we can.

**Senator Lynch-Staunton:** Honourable senators, that tends to contradict the testimony given yesterday by Ms Atkinson, the assistant deputy minister. She said:

Work is ongoing on the drafting of regulations.

Therefore, they do not need the bill to draft the regulations.

At the same time, we are also working on our implementation planning. We hope to be able to have regulations ready for prepublication before the end of the calendar year.

Therefore, our spending another month or another day on this bill will not affect the timing of the process through which the regulations must go.

She then continued:

That will allow for a prepublication period and consultation, the tabling of regulations in both houses and for a consideration of those regulations early in the new year.

Nothing we do here, such as allowing two to three weeks more of hearings on this bill, will delay that part of the schedule.

The implementation planning continues ...

This timetable, given by the official responsible for it, would allow the committee to give much more careful hearing to the witnesses. This afternoon, I believe there are six or seven witnesses, if not more, who will be given a very short period each, and perhaps some should be allowed twice or three times as much time. I maintain that, given the testimony yesterday by the official directly responsible for the regulations procedure, the committee should be given all the time needed, and that that would not conflict with the schedule as outlined.

**Senator Carstairs:** Honourable senators, the individual ultimately responsible for not only the bill but the regulations is the Minister of Immigration. The minister will be appearing before the committee on Thursday morning. Questions would

best be put to her at that time as to the way in which this piece of legislation, which I think is a valuable piece of legislation, can be brought into full force and effect as quickly as possible.

POSSIBILITY OF REFERRING IMMIGRATION AND  
REFUGEE PROTECTION BILL TO LEGAL AND  
CONSTITUTIONAL AFFAIRS COMMITTEE

**Hon. John Lynch-Staunton (Leader of the Opposition):**

The minister has indicated that she does not need the bill in order to implement the policy, so I do not know how valuable her testimony will be in seeing that we follow proper procedure.

Since we will have much more time than was indicated only a few days ago, will the government at least allow this bill, once out of the Social Affairs Committee, to go to the Legal and Constitutional Affairs Committee, which is where it should have gone originally? Yesterday, and I believe again this morning, although I have not seen the testimony from this morning, much of the testimony was based on questions relating to the Charter. These are matters with which the Social Affairs, Science and Technology Committee is not as well equipped to deal. However, the Legal and Constitutional Affairs Committee is. Once out of the one committee, I think it would be more than appropriate to send the bill to the Legal and Constitutional Affairs Committee in order to gain a complete understanding of it and its ramifications on individuals in relation to the Charter. Again, since we now have the time to do this, I hope the minister will agree that that is the way in which we should proceed.

**Hon. Sharon Carstairs (Leader of the Government):** First, I do not accept the position that we have more time. I have asked the honourable senators on that committee to put that question before the Minister of Citizenship and Immigration and let her lay out an exact timeline for them.

As to whether this bill needs to go to a second committee, honourable senators, the Charter is not simply a matter for the Standing Senate Committee on Legal and Constitutional Affairs; the Charter belongs to every single Canadian, and that includes every single senator sitting in this chamber. I am not a lawyer. However, I have strong views about the Charter. I believe that there are members on the Standing Senate Committee on Social Affairs, Science and Technology who have the expertise and knowledge to deal with Charter issues. I do recognize that perhaps the greatest expert on the Charter is Senator Beaudoin, and Senator Beaudoin can share his expertise by attending any committee of the Senate when it is in session, as indeed can any senator.

**Hon. Gérald-A. Beaudoin:** Honourable senators, it is true that the Constitution belongs to every citizen, as does the Charter, which is part of the Constitution. However, the objective of the Standing Senate Committee on Legal and Constitutional Affairs is to ask questions and to improve legislation, and we normally refer to that committee bills that involve constitutional law.



I was at the meeting of the Social Affairs Committee this morning because a delegation from the Canadian Bar was appearing there. We spent two hours discussing questions of legality and constitutionality. They raised three sections of the Charter, section 7 and section 12, and section 15, and they suggested six amendments. I thought I was in the Legal and Constitutional Affairs Committee, because obviously we were dealing 100 per cent with legalities.

That is all I have to say for the moment. I am in favour of referring this bill to the Standing Senate Committee on Legal and Constitutional Affairs. I understand that the Leader of the Government has already answered my question.

**Hon. A. Raynell Andreychuk:** On a supplementary matter, I was not able to attend the committee meeting this morning, but I certainly tried yesterday, and I will continue to look at this whole question. Some fundamental issues that are legal questions balance the rights and freedoms of individuals against security issues and societal issues. Some of the questions embedded in that bill, certainly, are not being answered because the witnesses called to this point have been those individuals who either obviously knew very quickly how our process works here and monitor us, or were looking at more philosophical public policy issues.

This bill raises some deeply troubling questions about the Constitution, about the Charter, and about interpretation, and I think only legal and constitutional experts could answer these questions. There are two ways of handling the situation: We could bring those experts before the Social Affairs Committee for a proper analysis of the bill or, alternately, we could turn the bill over to the Standing Senate Committee on Legal and Constitutional Affairs. My preference, as is Senator Beaudoin's, would be that it go to the Legal and Constitutional Affairs Committee because that committee has the collective memory and expertise to deal efficiently with issues of constitutionality. The time that they would take on such issues would be considerably shorter than that spent in trying to bring other senators up to speed. I know from my own experience with taking part in other committees that it takes me a while to get to know the topics and to get to know the issues, even though I may have previously had an interest in the area.

Therefore, since the time is being requested, I would want the Leader of the Government's opinion on whether it would be more efficient to continue study of this bill before the Social Affairs Committee or more expeditious to have those tight legal questions answered by the Legal and Constitutional Affairs Committee.

**Senator Carstairs:** Honourable senators, the Standing Senate Committee on Social Affairs, Science and Technology specifically lists immigration as one of its mandates.

It was, therefore, perfectly rational that this bill went to the Social Affairs, Science and Technology Committee. I did not

draft the witness list. The witness list was prepared by the steering committee of the Standing Senate Committee on Social Affairs, Science and Technology, of which a member of the opposition side is deputy chair. I would suggest that if additional witnesses are required, then the steering committee of the Social Affairs Committee should make that decision. That should not be my decision to make.

• (1440)

**Senator Andreychuk:** Honourable senators, I understand the leader to say that those legal questions must be answered but should be answered within the Social Affairs Committee. My only thought is that the leader is saying that because this committee has immigration as one of its mandates, we cannot move the study of the bill to another committee. However, we have often moved the study of legislation due to various committee workloads and perspectives. I understand why the bill went first to the Standing Senate Committee on Social Affairs, Science and Technology — because the minister had characterized the bill as public immigration policy. However, in the study — and this is why witnesses were called on public policy issues — it has become apparent that the real issue to be studied is not the public policy issue, but the legal consequences of such public policy and what they mean. Therefore, the suggestion is that the study of the bill be moved to Standing Senate Committee on Legal and Constitutional Affairs.

**Senator Carstairs:** Honourable senators, it is not only lawyers who understand the law. I used to chair the Standing Senate Committee on Legal and Constitutional Affairs, and I take great pride in the fact that I am not a lawyer.

It is not essential to be a lawyer to deal with the law. It is essential, however, that witnesses be heard on all aspects of this bill. That is exactly why, as I understand, the steering committee decided that the Canadian Bar Association should be before this committee. That is exactly why the Canadian Council of Refugees, which raised Charter issues, was asked to appear before the committee. This committee has an extensive list of witnesses and is doing an excellent job of examining this legislation. I look forward to the committee's report to this chamber.

**Senator Andreychuk:** Honourable senators, the fact that the bill was referred to the Standing Senate Committee on Legal and Constitutional Affairs is not because committee members are lawyers; rather, there are legal issues. I take great pride that our chair is not a lawyer and that our chair and other committee members have become well versed on legal matters. My point of view has nothing to do with putting the bill in the hands of lawyers. It has everything to do with putting the bill in the hands of valuable senators who have gained expertise and who may or may not be lawyers.

Honourable senators, I will not pursue this issue any further.



**Senator Carstairs:** Honourable senators, the bill is in committee and is receiving a thorough review. All senators are welcome at all times to appear. If they have questions, I urge them to raise them in the committee so they can get answers from the appropriate personnel.

**Hon. Roch Bolduc:** Honourable senators, many people talk about the law, but most of the time lawyers do a little better. They know the law a little better.

**Senator Carstairs:** With the greatest respect to Senator Bolduc, I think it depends on whether we are talking about living or income.

### PRIME MINISTER'S OFFICE

#### RESPONSE TO TERRORIST ATTACKS ON UNITED STATES— STATUS OF CANADA

**Hon. J. Michael Forrestall:** Honourable senators, the Secretary-General of NATO has stated that they have seen the evidence gathered by the United States in the aftermath of the September 11 terror attacks and that:

...the facts are clear and compelling. The information presented points conclusively to al-Qaeda and the Taliban regime in Afghanistan.

The NATO Secretary-General has announced that NATO is invoking Article 5 of the Washington treaty, which states that an attack on one member state is an attack on all member states. Prime Minister Blair of the United Kingdom has said that the Taliban's time to hand over Osama bin Laden and dismantle al-Qaeda is up, and that the Taliban will be held responsible for their complicity and that military action is inevitable.

Is Canada now at war? What action will the Government of Canada now take with regard to al-Qaeda, the Taliban and the Taliban control of the state of Afghanistan?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Senator Forrestall has raised this afternoon the briefing and meetings that took place with the NATO Secretary-General this morning, in which he did indeed make the statement that the United States has presented clear and compelling facts regarding the role that Osama bin Laden, al-Qaeda and the Taliban have played in the incident. The answer to his specific question "Is Canada now at war?" is no. War can only be declared by an individual country, and war has not yet been declared, to my understanding, by any country.

**Senator Forrestall:** Honourable senators, I would ask the minister to give us a clear indication of Canada's position with respect to Article 5. Can she tell the Senate and help clarify in the minds of Canadian citizens in what position we now find ourselves? The United States has declared war and we are

obliged under that treaty article to support them. Can the Leader of the Government in the Senate help us out in this dilemma?

**Senator Carstairs:** Honourable senators, I will begin by saying to Senator Forrestall that I am not of his view that the United States has declared war. The United States has indicated that it will be taking action. To my knowledge, and I could be wrong, they have not made a formal declaration of war, which, of course, is necessary for war to be, if you will, declared.

Canada supported the NATO statement originally on September 12. It has also concurred with the sharing of the information that has been made available today. We are now awaiting from our NATO partners, including the United States of America, what their requests will be of us and, therefore, what will be our participation.

**Senator Forrestall:** Honourable senators, I understand that the Leader of the Government in the Senate is telling us that Canada, for the time being, has no position with respect to what action we as a country may take with respect to those who support bin Laden and that we are now waiting for the United States to make a formal declaration. I believe I have heard President Bush declare war a dozen times and he invoked Western justice a dozen times. I have heard the comments that what happens to one nation happens to another nation, and I find it strange that we do not seem to have a position but continue to wait and see what will happen. Am I correct in drawing that inference from what the minister has said?

• (1450)

**Senator Carstairs:** No, honourable senators, Senator Forrestall is not correct. The United States has formal processes; we have formal processes. The United States has, I would suggest, in the last several weeks moved away from the war rhetoric. It is very true that in the first several days the word "war" was used a great deal of the time. Now we hear it less and less from the President of the United States, from the Secretary of State, and even from the Secretary of Defence.

I want to make it perfectly clear to members of this chamber that Canada will undertake its full obligations as a member of NATO and, therefore, what is requested of us under Article 5 we will do.

**Senator Forrestall:** Honourable senators, I find that this is getting to be a little absurd. I hope rational thought is being applied throughout this piece.

Should the Prime Minister of Great Britain take up arms later today or tomorrow, or in the next week, against the Taliban — and I am not speaking hypothetically — would Canada construe that act as one requiring us to state a clear and unequivocal position with respect to our support of the United States? It seems to me that we are equivocating unnecessarily.

**Senator Carstairs:** Honourable senators, I do not think there is any equivocation here. It is very clear that we do not know, other than Osama bin Laden and his group of terrorists, just how broad the net is. Certainly, in my view, it is not the Afghani people. I would be very reluctant to see us declare war against the Afghani people, who have already suffered great tragedies with regard to their human condition.

Whether we will in fact join in actions against a group of terrorists will be determined when we are asked to do so by our NATO partners. I think all have agreed that the leadership of this particular engagement should be the United States, as she is the nation that has suffered the most grievous damage.

**Hon. David Tkachuk:** Honourable senators, I want to follow up on that statement. If the act that was committed against the United States is seen by NATO as an act against all of us, which means against Canada as a partner in that organization, what position is our government putting forward as to what we think should be done? Have we simply said, "Well, whatever the United States wants?" Are we putting a position forward to NATO as to what should be done following this act?

**Senator Carstairs:** Honourable senators, I thank the honourable senator for using the word "attack," because that is the critical word here. In Article 5, the resolution very clearly says that an attack against one shall be considered to be an attack against all. These are all of our NATO partners. It does not mention the word "war." It talks about an attack. I think that strategically, together we are planning what best result we can achieve to rid us of terrorist attacks. That is why so much of the leadership has been left in the hands of the United States. That is exactly why, when our Prime Minister met with the President of the United States, he offered our support and help, but he clearly stated to the United States President that "We are looking to you to ask what it is you would like us to do."

**Senator Tkachuk:** That is not what NATO countries are doing. France has stated its position, whatever that position is. Prime Minister Blair has this morning clearly stated his country's position. We have not yet stated our position. Opposition parties in the other place are very frustrated because they cannot determine Canada's position. I think we are becoming the same way here.

What position are we as a country putting forward as to what should be done against this attack on one of our friends and allies, where over 6,000 people were killed? Surely we must have a position as to what we would like to see done.

**Senator Carstairs:** Honourable senators, we have a very clear position. Our clear position is that we are NATO partners. We accept the obligations under Article 5, as do all NATO partners. We have stated clearly we will undertake all obligations as a result of Article 5. I am not sure what else we should do at this time in evolving our policy. Suffice it to say that Minister

Manley has been put in charge of a cabinet committee to develop a strategy, to develop policies, and even to develop laws, if necessary, in order to meet not only this terrorist threat but terrorist threats in the future. We are willing to fulfil our obligations.

Prime Minister Blair was certainly rather hawkish today in terms of his statements to the meeting of his political party. Perhaps it was the setting that brought that out in him.

## FOREIGN AFFAIRS

### TERRORIST ATTACKS ON UNITED STATES—EFFECT ON PEOPLE OF AFGHANISTAN—PARLIAMENTARY APPROVAL OF INCREASE IN AID

**Hon. Donald H. Oliver:** Honourable senators, in response to questions earlier today, the honourable Leader of the Government in the Senate referred to humanitarian aid. I should like to build on a set of questions posed to the Leader over the last two weeks regarding the extent to which the non-governmental community would be a beneficiary of funding allocated by our federal government for disaster relief in Afghanistan.

I was heartened by the Leader of the Government's responses, which demonstrate a good appreciation of the humanitarian needs of the Afghan refugees.

Following a meeting with the United Nations Secretary-General, Kofi Annan, in New York, the Prime Minister announced that Canada's contribution to humanitarian assistance in Afghanistan had been increased from \$1 million to \$5 million on September 29, 2001. As the government leader knows, we are all quite pleased that the government has recognized its obligations to the world's civilians. However, can the government leader explain in what way Parliament was consulted in approving that increased spending? Considering that \$4 million is a considerable contribution to this worthy effort, and notwithstanding arguments that funding for this initiative was already built into the February 2000 budget, should not the issue have first been raised in Parliament and not the national media?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, let me begin by saying that my briefing note says it was, in fact, an additional \$5 million, bringing the aid package to \$6 million, and bringing the total aid package to the Afghani people to \$18 million for this fiscal year.

In addition, that is well within the budgetary provisions of CIDA, the Canadian International Development Agency. CIDA has money to use at its discretion to be spent in areas that it identifies in greatest need, and that is where that particular budget allocation falls.



[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table a delayed answer to the question raised by Senator Kinsella, on May 17, 2001, concerning the Immigration Act.

## CITIZENSHIP AND IMMIGRATION

### SPECIAL VISA PRIVILEGES FOR MEMBERS OF PARLIAMENT AND SENATORS

*(Response to question raised by Hon. Noël A. Kinsella on May 17, 2001)*

The *Immigration Act* authorizes the Minister of Citizenship and Immigration, at her sole discretion, to grant Minister's permits where she considers that extenuating circumstances exist.

Both Senators and Members of Parliament, irrespective of political affiliation, may make representations to the Minister of Citizenship and Immigration concerning immigration and visitor visa files if they believe that extenuating circumstances exist. There is no numerical limit to the number of requests for Minister's Permits that a Senator or a Member of Parliament may present to the Minister. Representations from Senators are treated in the same fashion as those made by Members of Parliament.

The Minister of Citizenship and Immigration will examine and weigh the information provided by a Senator or a Member of Parliament. The Minister will then decide whether to exercise her discretion to grant a Minister's Permit.

The Minister of Citizenship and Immigration is accountable for the exercise of her discretionary authority when granting Minister's Permits.

## ANSWERS TO ORDER PAPER QUESTIONS TABLED

### ATTORNEY GENERAL—BRIAN MULRONEY CASE

**Hon. Fernand Robichaud (Deputy Leader of the Government)** tabled the answer to Question No. 15 on the Order Paper by Senator Lynch-Staunton.

### CRIMINAL CODE—STATUS OF OFFICIAL LANGUAGES

**Hon. Fernand Robichaud (Deputy Leader of the Government)** tabled the answer to Question No. 16 on the Order Paper by Senator Gauthier.

## LIBRARY OF PARLIAMENT OFFICIAL LANGUAGES SCRUTINY OF REGULATIONS

### MEMBERSHIP OF JOINT COMMITTEES— MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that the following message had been received from the House of Commons:

*Ordered.*—That the Standing Joint Committees be composed of the Members listed below:

### Library of Parliament

Members: Bélanger, Bennett, Bertrand, Catterall, Gagnon (Champlain), Hill (Prince George—Peace River), Hill (MacLeod), Hinton, Karygiannis, Lavigne, Lill, Pickard, Plamondon, Saada, Stinson, Telegdi—(16)

Associate Members: Abbott, Ablonczy, Anders, Anderson (Cypress Hills—Grasslands), Bachand (Richmond—Arthabaska), Bailey, Benoit, Borotsik, Breitzkreuz, Brison, Burton, Cadman, Casey, Casson, Chatters, Clark, Cummins, Davies, Day, Doyle, Duncan, Elley, Epp, Fitzpatrick, Forseth, Gallant, Goldring, Gouk, Grewal, Grey (Edmonton North), Hanger, Harris, Hearn, Herron, Hilstrom, Jaffer, Johnston, Keddy, Kenney, Lunn, Lunney, Mackay (Pictou—Antigonish—Guysborough), Manning, Mark, Martin (Esquimalt—Juan de Fuca), Mayfield, McNally, Meredith, Merrifield, Mills (Red Deer), Moore, Obhrai, Pallister, Pankiw, Penson, Peschisolido, Rajotte, Reid, Reynolds, Ritz, Sauvageau, Schmidt, Skelton, Solberg, Sorenson, Spencer, Strahl, Thompson (New Brunswick Southwest), Thompson (Wild Rose), Toews, Vellacott, Wayne, White (Langley—Abbotsford), White (North Vancouver), Williams, Yelich

### Official Languages

Members: Bélanger, Bellemare, Binet, Bulte, Drouin, Gagnon (Québec), Godfrey, Godin, Goldring, Harris, Herron, Lavigne, McTeague, Reid, Sauvageau, Thibeault—(16)

Associate Members: Abbott, Ablonczy, Anders, Anderson (Cypress Hills—Grasslands), Bachand (Richmond—Arthabaska), Bailey, Benoit, Bergeron, Borotsik, Breitzkreuz, Brison, Burton, Cadman, Casey, Casson, Chatters, Clark, Comartin, Cummins, Day, Doyle, Duncan, Elley, Epp, Fitzpatrick, Forseth, Gallant, Gouk, Grewal, Grey (Edmonton North), Hanger, Hearn, Hill (Prince George—Peace River), Hill (MacLeod), Hilstrom, Hinton, Jaffer, Johnston, Keddy, Kenney, Lunn, Lunney, MacKay (Pictou—Antigonish—Guysborough), Manning, Marceau, Mark, Martin (Esquimalt—Juan de Fuca), Mayfield, McNally, Meredith, Merrifield, Mills (Red Deer), Moore, Nystrom, Obhrai, Pallister, Pankiw, Penson, Peschisolido, Plamondon, Rajotte, Reynolds, Ritz, Schmidt, Skelton, Solberg, Sorenson, Spencer, Stinson, Strahl, Thompson (New Brunswick Southwest), Thompson (Wild Rose), Toews, Tremblay (Rimouski-Neigette-et-la Mitis), Vellacott, Wayne, White (Langley—Abbotsford), White (North Vancouver), Williams, Yelich



### Scrutiny of Regulations

Members: Barnes, Bonwick, Carignan, Comuzzi, Cummins, Gouk, Grewal, Guimond, Knutson, Lanctôt, Lee, Macklin, Myers, Nystrom, Pankiw, Wappel, White (North Vancouver)—(17)

Associate Members: Abbott, Ablonczy, Anders, Anderson (Cypress Hills—Grasslands), Bachand (Richmond—Arthabaska), Bailey, Bellehumeur, Benoit, Borotsik, Breitzkreuz, Brison, Burton, Cadman, Casey, Casson, Chatters, Clark, Day, Doyle, Duncan, Elley, Epp, Fitzpatrick, Forseth, Gallant, Goldring, Grey (Edmonton North), Hanger, Harris, Hearn, Herron, Hill (Prince George—Peace River), Hill (Macleod), Hilstrom, Hinton, Jaffer, Johnston, Keddy, Kenney, Lebel, Lunn, Lunney, MacKay (Pictou—Antigonish—Guysborough), Manning, Mark, Martin (Esquimalt—Juan de Fuca), Mayfield, McNally, Meredith, Merrifield, Mills (Red Deer), Moore, Obhrai, Pallister, Penson, Peschisolido, Rajotte, Reid, Reynolds, Ritz, Schmidt, Skelton, Solberg, Sorenson, Spencer, Stinson, Strahl, Thompson (New Brunswick Southwest), Thompson (Wild Rose), Toews, Vellacott, Venne, Wayne, White (Langley—Abbotsford), Williams, Yelich

That a message be sent to the Senate to acquaint their Honours of the names of the Members to serve on behalf of this House on the Standing Joint Committees.

ATTEST:

WILLIAM C. CORBETT,  
*The Clerk of the House of Commons.*

[English]

### QUESTION OF PRIVILEGE

COMMENTS BY MINISTER OF CITIZENSHIP AND  
IMMIGRATION—SPEAKER'S RULING

**The Hon. the Speaker:** Honourable senators, on Thursday, September 27, the Leader of the Opposition, Senator Lynch-Staunton, raised a question of privilege with respect to Bill C-11, dealing with immigration and the protection of refugees, that is now before the Senate, and certain remarks made recently by the responsible Minister, Elinor Caplan, a member of the other place. On September 26, according to Senator Lynch-Staunton, the minister made comments to a journalist that suggest that the minister was already implementing provisions of the bill even though it is not yet law. This position, he said, seemed to contradict earlier statements of the minister who had then claimed that her department could do nothing until Bill C-11 was passed into law. The senator found these more recent statements to be offensive. In his view, such

remarks demonstrated a contempt for Parliament and a breach of the privileges of all senators as they anticipated passage of the bill by the Senate and Royal Assent. As the Leader of the Opposition put it when he gave oral notice of his question of privilege, "Ministers of the Crown cannot act without parliamentary authority. They are not above the law."

The issue of the minister's statements to the media had already been the focus of the Opposition Leader's question to the Leader of the Government, Senator Carstairs, the day before, Wednesday, September 25. At that time, Senator Lynch-Staunton had reserved the right to raise a question of privilege, which he did on Thursday. Forewarned by what had happened on Wednesday, Senator Carstairs contacted the minister and obtained from her a letter that was read out at the outset of Question Period on Thursday, before the debate on the *prima facie* merits of the question of privilege. The letter explained, according to Senator Carstairs, that the media comments had not accurately reflected the minister's wishes. The letter described that the minister was intensifying security screening actions to keep out undesirable immigrants or refugees already authorized under the current law. In closing, the minister also regretted any confusion caused by the reports of her actions.

[Translation]

Debate on the *prima facie* merits of this question of privilege followed at the end of the Orders of the Day. At that time, Senator Lynch-Staunton spelled out the nature of his complaint against the Minister of Immigration and Citizenship. In presenting his case, the Senator was emphatic in declaring that it was the public statements of the minister that constituted a contempt of Parliament.

[English]

In reply to an explanation offered by the Leader of the Government, Senator Lynch-Staunton dismissed it. He stated:

The question before His Honour is not whether the minister is acting under parliamentary authority or not. The question is whether she said that she would exercise some of the powers that would be granted to her if Bill C-11 were passed...

Several other senators then participated in the debate. During the course of her remarks, Senator Cools offered an analysis of the minister's statements to the media and suggested that the minister be offered a proper opportunity to explain what she meant. The senator urged the Senate not to rush to any judgment on the matter. In her view, it appeared to be a "political problem."

Senator Nolin then spoke. He suggested that at this stage in the proceedings the only real question to be determined was whether the minister, in light of her conversation with a journalist, had breached the privileges of the Senate.

Citing the British parliamentary authority, Erskine May, Senator Taylor asked me, as Speaker, to consider two questions: whether the Senate can assert privilege when it involves the action of a member from the other place and whether the Senate has a case of constructive contempt based on the comments made by the minister.

By way of reply, Senator Rompkey then referred to a citation from Beauchesne's, a Canadian parliamentary authority, asserting that a question of privilege cannot be based on statements by a member made outside the House. This seemed to prompt another intervention by Senator Carstairs who reiterated the point raised by Senator Rompkey after noting again that, according to minister's letter, the actions of her department are legal under the current immigration law.

This point was then challenged one more time by Senator Lynch-Staunton who was supported by Senator Murray, who suggested that Beauchesne's might not be entirely relevant to this case since the minister is not a member of this house.

Finally, Senator Andreychuk reminded the Senate that not so long ago a *prima facie* question of privilege was admitted by the Speaker in a recent ruling based on a newspaper account.

Following these contributions, I agreed to take the matter under advisement. At that time, I expressed a desire to review the authorities that had been cited in order to determine if there is a *prima facie* question of privilege. I have now done this and I am prepared to rule on this question of privilege.

[Translation]

As I have been reminded by senators, and as I fully acknowledge, my role as Speaker is limited. It is to find whether or not, in this case, there is a *prima facie* question of privilege; that is to say, whether or not the matter appears either to involve a breach of the privileges of the Senate, as a parliamentary body, or to constitute a contempt against its authority.

[English]

Senator Lynch-Staunton brought his question of privilege to the attention of the Senate under the provisions of rule 43 of the *Rules of the Senate*. In order for the question of privilege under rule 43 to be accorded priority over all other business, it must meet certain tests. There are four specific tests listed in the rules. The first is that of earliest opportunity. The second is that the matter must directly relate to the privileges of the Senate, its committees or any senator. The third is that it must seek a genuine remedy within the powers of the Senate for which no other parliamentary process would be as satisfactory. The fourth, and the last, is that the question of privilege must be raised to correct a grave and serious breach. It is my obligation, as Speaker, to determine whether the alleged question of privilege satisfies these requirements.

First of all, I am satisfied that the alleged question of privilege was raised at the earliest opportunity. Senator Lynch-Staunton indicated that he had first seen recent statements of the minister last Wednesday, when he put some questions about them to the Leader of the Government. At that time, he reserved the right to raise this matter as a question of privilege since it had not been possible to provide the necessary three hours' notice on Wednesday as required under rule 43(3).

I find that the remaining three criteria that must be assessed to determine a *prima facie* case are not quite as simple to evaluate. For example, the second criterion under rule 43 requires that the matter must directly relate to the privileges of the Senate. In other words, have the statements of the minister impeded the ability of the Senate to deal with Bill C-11? No one has indicated that it will not now receive a thorough study in committee as a result of the minister's comments. For this reason, I do not accept the notion that Senator Taylor raised with respect to "constructive contempt." No evidence was presented that the minister's remarks to the media have obstructed the Senate in the performance of its functions by diminishing the respect due to it. There has been no substantial interference in our debate on Bill C-11.

As a related point, Senator Taylor also raised the question about the authority of this house over the actions of a member of the other place. According to Erskine May, "Since the two Houses are wholly independent of each other, neither House can claim, much less exercise, any authority over a Member...of the other." This seems to touch upon the question of whether or not there is a real remedy that is within the authority of the Senate. While it is an option for the Senate to express its objection about the behaviour of a member of the other place given the appropriate circumstances or provocation, I am not persuaded that the present case is sufficiently egregious to merit such a step. This conclusion, of course, relates also to the fourth criterion — whether the complaint involves a grave or serious breach. It is relevant to point out that the Leader of the Government has read a letter from the minister stating her position. While it did not amount to a direct apology, the letter explains that the minister has no intentions of acting without the necessary parliamentary authority. It also expresses regret for any confusion caused by her comments.

• (1510)

[Translation]

All of us are well acquainted with the common misunderstanding about the role of Parliament in general and the functions of the Senate in particular. In the end, it cannot do our parliamentary system any good to undermine, even if inadvertently, its fundamental authority and its bicameral composition.



[English]

## ORDERS OF THE DAY

### CARRIAGE BY AIR ACT

#### BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

**Hon. Ross Fitzpatrick** moved the second reading of Bill S-33, to amend the Carriage by Air Act.

He said: Honourable senators, it is my privilege to rise today to speak to Bill S-33, a short but important bill to amend the Carriage by Air Act. This act is Canada's enabling legislation to give lawful effect to a global regime of common rules known as the Warsaw System, which limits carrier liability for the injury or death of a passenger and the damage, loss or delay of baggage or cargo during international air transportation.

The Warsaw System is comprised of the 1929 Warsaw Convention and its amending instruments, namely, The Hague Protocol of 1955, the Guadalajara Supplementary Convention of 1961 and the Montreal Protocol No. 4 of 1975. The last two were considered when last amending this act in 1999.

Bill S-33 amends the act so that Canada can join other states, including the United States and our other major trading partners, in a united attempt to ratify the 1999 Montreal Convention to consolidate and modernize the Warsaw System.

Honourable senators, our consideration of this bill is also timely, given the horrific events of September 11 carried out by terrorists through the perverted use of commercial passenger aircraft. Thousands of lives were lost in those attacks and countless more have been changed forever. I submit that it is now important to do what we can to help bring about closure. This bill will help to do just that.

Permitting Canada to ratify the Montreal Convention would move the world a step closer a new global regime for carrier liability that has the potential to reduce litigation and expedite the settlement of claims. The Montreal Convention preserves certain redeeming features of the Warsaw System, including, for example, the unification of laws relating to the international carriage by air, which has been and continues to be of vital importance to management of international air transport. Without such unification, complex conflicts of law could arise and the settlement of claims would be unpredictable, costly, time consuming and possibly uninsurable. Jurisdictional conflicts could also arise, which would further aggravate the settlement of claims.

Time and socio-economic developments have outdated the Warsaw System in other ways. The Montreal Convention

addresses these antiquities by introducing new features, one of which will permit international passengers to choose their own local system of law when making claims. This is an entitlement which is consumer friendly. Another new feature will establish in law a two-tier system of carrier liability, described as follows: In the first tier, the carrier will assume absolute liability for claims on actual damages to a certain threshold; in the second tier, the carrier reserves its entitlement to limited legal defences for claims exceeding this threshold. Importantly, there is no limit on the value of a claim for actual damages. The Montreal Convention will bring effect to a form of unlimited, instead of limited, carrier liability to international passengers.

It is important to note that, since 1997, international airlines, including Air Canada and our international charter operators, in recognition of the outdated limitation on carrier liability, have voluntarily put into effect this two-tiered regime while continuing to observe all other requirements of the Warsaw System. Moreover, the Montreal Convention strongly complements policies advanced by the Minister of Transport in the area of scheduled and charter all-cargo international air services that are designed to promote those services by Canadian carriers.

The Montreal Convention has been signed by 66 nations, including the United States, as well as all of Canada's other major trading partners. In fact, 11 of 67 signatories have since ratified the Montreal Convention. A quorum of 30 nations must ratify the Montreal Convention before it can have international force and effect. The Montreal Convention will continue to set out clear rules regarding carrier's liability in situations where one carrier is operating for another carrier.

The authority for Canada to adhere to the Montreal Convention is provided by adding references to a new Schedule VI, which is to be annexed to the Carriage by Air Act. The development of the Montreal Convention involved extensive consultations in which the Canadian government, alongside Canadian industry, assumed a key role. It has the support of the Canadian aviation industry as well as all aviation-related organizations in Canada.

It is necessary, honourable senators, that we ensure that Canadian travellers, Canadian carriers and Canadian shippers have the benefit of a modern liability regime that reflects the reality of today's aviation industry.

Honourable senators, the amendments proposed to the Carriage by Air Act are aimed at ensuring that Canada recognizes and adopts as law what will become the globally recognized legal instrument dealing with international air carriage of passengers and cargo.

On motion of Senator Stratton, debate adjourned.



[Translation]

## OFFICIAL LANGUAGES ACT

BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED

**Hon. Jean-Robert Gauthier** moved the second reading of Bill S-32, to amend the Official Languages Act (fostering of English and French).

• (1520)

He said: Honourable senators, the wording of the bill amends the Official Languages Act to clarify the scope of section 41 of that act in the manner most apt to ensure the attainment of its object.

The concept of linguistic rights is closely related to that of the collective rights of minorities. In Canada, referring language rights to the courts is a relatively recent phenomenon. Since 1982, French and English have enjoyed the same legal recognition — guaranteed under the Canadian Constitution — at the federal level. Through this recognition, the Canadian Parliament wanted to strengthen national unity by creating a legal balance between two linguistic communities and thus ensure social peace.

The Canadian state would probably not have recognized language rights if it had not previously recognized the principles of diversity and pluralism in its vision of the Canadian society. Indeed, multilingual arrangements within a state must invariably include the recognition of collective rights.

Most language rights must be protected through legal guarantees. At the federal level, the language rights structure is essentially based on two legislative documents. They are the Constitution Act, 1982, and more specifically sections 16 to 23, and the Official Languages Act, adopted for the first time in 1969 and reviewed in 1988 in the context of the new constitutional order resulting from 1982.

I agree that there are significant nuances and even differences of opinion regarding the concepts of individual and collective rights.

In her presentation entitled "Democracy and Rights: a Canadian Perspective" (January-February 2001), the Chief Justice of the Supreme Court of Canada, the Right Honourable Beverly McLaughlin said:

Collective rights are the cornerstone on which Canada was built. Without the guarantees provided to groups and minorities, it is unlikely that peoples as different as those of the Upper and Lower Canada would have united to form a country.

In a recent case, the Attorney General of Canada argued that Part VII of the Official Languages Act does not include an

obligation for the federal government to always take measures to promote Canada's francophone and anglophone minorities, to support their development and to foster the full recognition of the use of French and English in Canadian society.

I will tell you that I am not surprised by the position of the Solicitor General of Canada, because this is the position taken by all Ministers of Justice I have known since the passage of the new law in 1988. It is a minimalist interpretation the Department of Justice has held for 13 years. I think it is high time it be changed.

Today, I received a reply to a question I asked the government last May about this section. I was not surprised to read, at page 4, that:

Part VII of the Official Languages Act contains a commitment and not legally enforceable obligations and thus does not provide legal recourse.

The current minister, the Honourable Anne McLellan, wrote to me in October 1999, confirming pretty much what I read in her response today. According to the *Petit Robert* dictionary, "declaratory" means "establishing intent." The Department of Justice's interpretation is minimalist, to say the least, and puts the government on the track of good intentions, but in no way compromises its position of minimal effort. Accordingly, we are marking time, and section 41 continues to be ambiguous.

I want to put teeth into this law. I would like section 41 to be clearly enforceable. I want minorities to be protected by a watch dog, not a lap dog.

I could make a long presentation on the issues relating to the interpretation of section 41. I am neither a lawyer nor a constitutional expert. I am simply a senator and a former member of Parliament who has worked in this area for a long time and who has an opinion on the issue. My opinion has not changed since the beginning of the debate that started in 1988.

I sincerely believe that, with section 41, the government was pledging to ensure the promotion, development and vitality of official languages communities. In the dictionary *Le Petit Robert*, it is said that a commitment is not an obligation. Again, I will tell you what the intention of the legislator was in 1988 when this section was adopted.

Why am I in the Senate today with a bill to amend section 41 of the Official Languages Act? Because I believe that the atmosphere is better. I think that the government will have a better understanding. I think that it is possible today to strengthen section 41 and to make it binding.

Honourable senators, linguistic groups are threatened by an insidious assimilation process and they are slowly losing the battle. Francophone communities outside Quebec have a serious problem. Financial support for Ontario's francophone communities has dropped significantly in recent years.

The Department of Human Resources Development sent me a huge file on the funding of francophone communities. I did not have time to read it in detail, but I would say that financial support has been dropping constantly over the past five or six years.

In Quebec, the anglophone presence in the public service, both federal and provincial, is minimal and a cause for concern. Quebec anglophones feel threatened, and their numbers are continually on the decrease. Some anglophone Quebecers feel that their rights have been jeopardized, that they are being deprived of them.

We must take action "in the Canadian manner," in Quebec as everywhere else in the country. We must bring things back up to speed. We have two official languages and we must respect and promote them.

The Supreme Court of Canada has never brought down a decision on the scope of section 41 of the Official Languages Act. I have tried to encourage it to do so, and heaven knows the price I have paid. Until the present time, the Supreme Court has not seen fit to listen to any arguments on the scope of section 41.

Because of the minimalist interpretation the Minister of Justice has given to section 41, the federal government has not seen fit, since 1988, to substantially reinforce the regime for application as set out in sections 42 through 45, despite favourable case law since 1996, with a broad and liberal interpretation of language rights and having the Official Languages Act subject to the same rules of interpretation under the Canadian Charter of Rights and Freedoms, 1982. I refer to the decision handed down in *Beaulac*. This is exactly what Bill S-32 proposes: subjecting the Official Languages Act to the court decisions that have been handed down since 1988.

• (1530)

Under the terms of the Official Languages Act, the Minister of Canadian Heritage has sole responsibility for coordinating interdepartmental activities for the purpose of enforcing section 41, and has no coercive means to ensure that its spirit and purpose are strictly enforced and implemented in all government departments and agencies. Speak to officials. They pay no attention to it! Section 41 has no teeth! Nothing, or almost nothing, is happening. This is not right.

However, numerous annual reports by the Official Languages Commissioner — which have furthermore been tabled in this chamber — have commented on the government's overall lack of commitment to official language communities.

Since March 2001, Minister Dion has been responsible for coordinating interdepartmental activities. He told us in committee that he had no action plan with clear and specific objectives to propose.

He told me that section 41, as interpreted by the Minister of Justice, was the government's position. So I decided to do something about it. If that is how things are, we will take a strong stand, initiate a debate and see where it leads. I hope that this will be constructive and that section 41 of the act will be amended.

The main objectives of Bill S-32, the purpose of which is to give section 41 some teeth, are as follows: first, to clarify the federal government's commitment to official language minorities; second, to force the federal government to review its implementation system as provided for in Part VII of the Official Languages Act, sections 42 to 45; and, third, in accordance with the *Beaulac* ruling, to submit section 41 of the Official Languages Act to the rules of interpretation of the Canadian Charter of Rights and Freedoms, as defined by the Supreme Court of Canada. All this would afford better judicial control, among other things.

As things now stand, Part VII is exempt from any legal recourse. Even the Official Languages Commissioner may not go before the courts and say that the federal government is not committing sufficient funds to encourage and foster the development of minority official language communities.

For me, section 41 does not constitute any new rights that have been created, but is more of a directive to the government in connection with its spending powers to foster the development and promotion of minority official language groups.

What was the legislator's desire when Bill C-72 was being studied in 1988? I will review a few facts from that time, if I may.

On March 22, 1988, before the legislative committee of the House of Commons mandated to examine Bill C-72 on official languages, the Honourable Ray Hnatyshyn, then Minister of Justice and Attorney General of Canada, said the following:

This part of the bill (Part VII) is based on the Charter (par. 16(3)) relating to the principle of progression toward equality of status or use for French and English, as recognized by the Supreme Court in a number of significant decisions.

On July 20, 1988, when he appeared before the Senate committee mandated with examining the bill, the Honourable Lucien Bouchard, then Secretary of State for Canada, said the following:

The importance the federal government attaches to the communities is expressed most particularly in Part VII of Bill C-72, the application of which is the responsibility of the Secretary of State. Clause 41 sets out the entire extent of the government's intentions. It allocates to the federal government the obligation to foster the development of language minorities, to support their development, and to promote full recognition of the use of French and of English.



I purposely emphasized the word "obligation." This is not just wishful thinking here; those are the words of a minister. Mind you, that was back in 1988. Lucien Bouchard also said:

This notion of the development of language minorities is being referred to in a clause within a bill for the first time...That clause (41), and all the others within this bill that support it, confers a legislative basis to this objective we have set for ourselves to have full participation by minority language groups in the life of our country.

In conclusion, it is high time for section 41 to be reinforced. It is imperative for the ambiguity in its wording to be clarified, based on subsections 16(1) and 16(2) of the Constitution Act, 1982, replacing the words "the Government of Canada is committed to" by "the Government of Canada takes the necessary steps to enhance the vitality of the English and French language minority communities in Canada and to support and assist their development."

Canada's language minorities need parliamentarians to restore their confidence in their country's future. Part VII of the Official Languages Act, section 41 in particular, are excluded from any recourse to the courts. Why is this the case in 2001? It is time for a change. The Parliament of Canada must assume its obligations and responsibilities. I trust that this bill will be passed, eventually.

[English]

**Hon. Sheila Finestone:** Honourable senators, I would address a few remarks to the Honourable Senator Gauthier.

We all appreciate the work and effort that Senator Gauthier has put into bringing before us the evolution of the Official Languages Act and, in particular, Part VII of that act. As I listened to his presentation, I had a sense of acute disappointment and also found myself wondering why, after committees meet and undertakings are given, the results are as Senator Gauthier has described them here today.

I was once the joint chair of the Standing Joint Committee on Official Languages, along with the senator who is today's acting speaker. I recall clearly that the then Treasury Board chair, the Honourable Marcel Massé, gave very particular undertakings regarding Part VII and section 41. He had received some fine reports from a series of excellent researchers. That research indicated a forward move with the application of section 41. The Treasury Board had been mandated with certain responsibilities.

Senator Gauthier gave us a very interesting chronology. He spoke about the roles and responsibilities of the Minister of Canadian Heritage and of the Minister of Intergovernmental Affairs, Stéphane Dion. The Treasury Board is responsible for the administration of the public service and the business of

government, and for the individuals who work in the public sector. What happened to the Treasury Board's interpretation of Part VII and sections 41 through 45? That was well on its way two to three years ago, when we were looking at it, with about five books' worth of studies.

• (1540)

**Senator Gauthier:** I thank the honourable senator for her question. It gives me the occasion to recall certain other incidents. In 1976-77, Pierre Trudeau, who was the Prime Minister at the time, asked Pierre Juneau to coordinate the difficulties that we were having with the application of the new Official Languages Act, which had been adopted in 1969. Seven or eight years later, we were having difficulties with the application of the law in the public service, in the private sector and with minority groups. Juneau did a good job.

Recently, when Mr. Dion was named as coordinator, I said, "Well, history repeats itself. I hope he does a good job." We asked him, "Do you have a plan?" He said, "No." We asked him, "Do you have clear objectives?" He said, "Not yet." We asked him, "Do you have any money?" He said, "No." We said, "Heritage, Human Resources and Justice have funds." He reminded me that the Department of Justice is the senior department in terms of legal interpretation. Treasury Board is there for public servants, but it does not have the same power nor the same convincing definitions of what section 41 actually means.

The answer I received today from the Department of Justice states that Part VII of the Official Languages Act contains a commitment but no legally binding obligations, and therefore cannot lead to legal remedies.

**Senator Finestone:** Smoke and mirrors.

**Senator Gauthier:** You and I have to accept that section 41 is a pious offering. It is a commitment but it is not, in my view, enough. Justice says, "You cannot go to court on that, and therefore we will interpret that as being not strictly an executory but a declaratory article."

I know the honourable senator was chair of that committee. The committee looked at section 41. In fact, we spent a year and a half looking at it. We had all kinds of good advice. Nothing happened. I asked questions in the committee. Nothing happened. What do I do? I come to the Senate and I say, "Perhaps I will be able to trigger a debate here that will finally bring us to a conclusion of some kind of executory character to section 41 to give it some oomph or some teeth." If we do not get to that, I will go home and say, "Game over."

**Hon. Lowell Murray:** Honourable senators, I do not want to participate in the debate right now. However, I would like to reserve my right to do so at some later date.



I found the honourable senator's speech extremely interesting. The question I would like to ask is whether the Deputy Leader of the Government would undertake to have the government supply some honourable senator on that side with a considered response on behalf of the government to the arguments that have been put forward today by Senator Gauthier. In particular, I would like to see a report from the government on the performance under section 7 of the Official Languages Act since that section was proclaimed. I would like to see what the government has to say about that.

The only question I had for my friend Senator Gauthier concerned his statements to the effect that anglophone minorities in Quebec and francophone minorities elsewhere are poorly represented in the federal public service. I wonder how his amendment would improve their lot. It seems to me that if they are poorly represented, it is because very specific provisions of the existing act are not being respected and not being enforced. I hope my memory is not playing tricks on me, but I am sure there are provisions of the Official Languages Act respecting the equitable representation of both anglophones and francophones in the federal public service. Perhaps the question we should be asking is why these provisions are not being respected and enforced.

**Senator Gauthier:** I thank Senator Murray. Some years ago, he and I co-chaired the Official Language Committee and tabled a report — No. 5. I think it was — which touched on the issue of equitable representation. Section 41 is such a vague and contentious article of the law that it has literally no impact on the Public Service of Canada and has little impact on the promotion of the equality of English and French across this country. It has no guts to it. It needs to be executory; It needs to be applied.

The provinces should be involved in this, because section 43 deals with the provinces. The Constitution of Canada is for all Canadians. It binds the government. It binds the Parliament of Canada. It also places obligations on provincial authorities. In Quebec, we all know that the percentage of English-speaking individuals in the public service of Quebec is minimal. We are having a hard time in the federal public service. I am no expert on that, but I know from my reading and from testimony I have heard that out west, for example, it is a question of a decimal percentage of public servants who are French-speaking. Bilingual positions are usually left to people who sometimes do not have any knowledge of the second language. The position is designated bilingual but the individual who is occupying the position does not have the qualifications either to speak English or to speak French, and that is unacceptable today, thirty years after the adoption of the Official Languages Act.

We must get our act together and tell public servants that, yes, Canada has a population that has two official languages. I will be frank with you: I am frustrated with this concept that I hear regularly that Canada is a bilingual country. There is nothing like that in the Constitution. The word "bilingual" does not appear in our Constitution. We have two official languages. That is a

different concept, and we must respect both official languages across the land.

I am trying to put the thing into context. We must get rid of some of these myths and get on to the real floor where the action will be, and that is here in the Parliament of Canada.

• (1550)

**Senator Murray:** I thank the honourable senator for his response. However, I do not want to let the Deputy Leader of the Government off the hook. Will he send forward a message to the government indicating that some of us should like to hear a considered reply by an honourable senator on behalf of the government to the arguments that have been made by Senator Gauthier and, in particular, an historic assessment of the operation of Part VII since it was proclaimed?

[Translation]

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, that a question do now be put to Senator Robichaud?

**Hon. Senators:** Agreed.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, Senator Murray is well aware that the Deputy Leader of the Government in the Senate may certainly not reply and give a commitment for the government. However, I assure you that we will follow the debate closely. Questions will be raised and certain senators from our side will rise to speak. We will see what responses are given as we go along and we will try to enlighten honourable senators as much as possible.

**Hon. Jean Lapointe:** Honourable senators, I wish to point out to Senator Gauthier that, in my view, Bill S-32 is an important one and that I admire his courage in coming back with this issue. I got to know the francophone community in Northern Ontario and I think it needs more help. I wish to assure Senator Gauthier of my complete support.

[English]

**Hon. Joan Fraser:** Honourable senators, like Senator Gauthier, I have heard successive ministers and civil servants explaining that Part VII is not executorial. However, I have never heard an explanation of why the government so adamantly refuses to consider that it might be executorial. Does the honourable senator have any indication why the government, over successive years, has taken this position? Is it simply out of fiscal caution, or is it because the government is afraid of federal-provincial hassles or perhaps of finding itself constitutionally invading provincial jurisdiction? What on earth is the reasoning of the government for a position that every member of a language minority finds impossible to understand or justify?

**Senator Gauthier:** I thank the honourable senator for her question. It touches a point that I have been trying to find answers to for the last 13 years.

The minister responsible at that time told us that this created obligations on the government. Ever since, the Department of Justice has told us that there is no obligation, that it is all in our minds. Yet, I know. I was there, as was Senator Murray. There was no political will to go ahead with the obligation. They wanted it to be simply pious wishes.

I totally disagreed with that interpretation. I wrote to every minister I could think of, and they responded that the Minister of Justice says that section 41 is declaratory. This means that one cannot go to court on it and cannot ask the judicial authorities what they think about it, even though since 1998 there have been a series of judgments of the Supreme Court saying exactly what I am saying — that is, that the object of the law must be followed and respected. God only knows why they do not do it. I do not know. Maybe we should ask the minister when she comes to committee.

[Translation]

**Hon. Eymard G. Corbin:** Honourable senators, with leave of Senator Gauthier, I would like to ask him a question. It is obvious that a number of honourable senators will want to speak to Bill S-32 in order to indicate their support. I intend to do so myself eventually.

Has Senator Gauthier had the time to consider the following question: To which committee will this bill be referred for study after second reading? Will it be referred to the Standing Joint Committee of the Senate and the House of Commons on Official Languages, to an already existing or as yet to be created Senate committee, or to a Senate Committee of the Whole?

**Senator Gauthier:** Honourable senators, I have given this some thought. I definitely do not want the bill referred to the Standing Joint Committee on Official Languages. Two years ago, I asked that there be a Senate Committee on Official Languages because I felt that the Standing Joint Committee on Official Languages was ineffective. I have often said so in this chamber.

I hope that Bill S-32 will be referred to the Senate's Standing Committee on Legal and Constitutional Affairs, where senators will have a chance to have a serious discussion while, in the joint committee, party politics will prevail and the various parties will not agree. I want an intellectual discussion to set clear and specific objectives. We want a country that respects both official languages and that recognizes that every citizen has the right to express himself in English or in French when addressing a parliamentary institution.

On motion of Senator Comeau, debate adjourned.

[English]

## DEFENCE AND SECURITY

### BUDGET—REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Defence and Security (budget—release of additional funds) presented in the Senate on September 25, 2001.—(*Honourable Senator Kenny*).

**Hon. Colin Kenny** moved the adoption of the report.

He said: Honourable senators, I should like to take this occasion to comment on both this report and the previous one by the Rules Committee. There was some discussion in this place a week ago today, and I think it would be worthwhile if I addressed some of the questions and put in context some of comments that were made then.

• (1600)

One way to accomplish that is to run briefly through the sequence leading to the origin of this committee, in order to bring us up to date and make sure that all honourable senators are on the same page. There were some questions last week about whether the committee had an order of reference, or budget or authority to travel, and by running through the sequence I can address those questions.

On June 22, 2000, the Standing Committee on Privileges, Standing Rules and Orders studied the issue relating to new committees and issued a report recommending that a committee on defence and security be established to deal with matters relating to defence and security generally, including veterans affairs.

On February 20, 2001, a notice of motion to create a committee on defence and security was given by the government, again, referring to a mandate of matters relating to national defence and security generally, including veterans affairs.

On March 15, 2001, the Defence and Security Committee was created by this chamber on a motion moved by Senator Robichaud. On May 29, there was a motion regarding the order of reference for the name change. On May 31, the Defence and Security Committee received an order of reference, which stated:

That the Standing Senate Committee on Defence and Security be authorized to conduct an introductory survey of the major security and defence issues facing Canada with a view to preparing a detailed work plan for future comprehensive studies;

The committee chose such a reference because this is a new committee. This is not a committee that has been around before; it does not have a corporate memory as have so many other Senate committees.



Members of the committee recognized some issues that were of immediate interest. Maritime helicopters was one issue, the National Missile Defence issue was another. After a considerable amount of discussion, the committee members concluded that it would better serve the Senate and Canadians, if the committee made an effort to learn as much as possible about the various topics relating to the work of the committee. In other words, we came to the conclusion that we had best do our homework first and start looking at issues afterwards.

The committee undertook to meet the key players in the various agencies to which it related, it undertook to examine the important policies and the legislation that empowered those organizations and it undertook to determine how the different organizations worked or functioned together. The committee members felt it was important to be seen to be doing that, and to be seen to be doing it in the areas where these organizations were functioning. I will get into that in more detail in a moment.

On May 31, a motion to change the name of the committee was referred to the Rules Committee. On June 13, 2001, the Rules Committee examined the name change, and it is worth going back to the minutes of that meeting to discuss them briefly. This is June 13 and, at that time, I was asked to comment on the organizations that related to the so-called mandate of the committee.

As an aside, honourable senators, I should point out that "mandate" is not a Senate word. It does not appear in the *Rules of the Senate*. It is however used in the other place. We tend to use "reference" as in reference from the Senate. However, it is worthwhile pointing out that rule 86(1) goes on to define in a general way the matters that should be referred to that committee. Notwithstanding that, all honourable senators know the chamber has the capacity to refer any matter to any committee when it so chooses, but there is a general description of what constitutes the work of most committees.

At the Rules Committee meeting of Wednesday, June 13, when I was asked what areas aside from the Department of Defence were included when someone talked about security generally, I replied that it included the Communications Security Establishment, the Defence Science Advisory Board, the defence department ombudsman, the Reserves, cadets, benevolent funds and, of course, veterans affairs, which are mentioned in the motion establishing the committee. Also included was the Solicitor General, only as it related to the National Security Directorate; and the RCMP, as it related to national security issues and the protection of the state; the Canada Customs and Revenue Agency, only as it related to secure borders and people penetrating the borders, and the relationship customs and immigration has with police and sometimes the Department of Defence. It was in that context that those other departments were related. The work of the committee really related to the defence of the country.

Honourable senators, if I can go on with the sequence, on June 20, the Rules Committee examined the name change again.

At that time it concluded it would report to the Senate that it was appropriate to change the name. Honourable senators have the report, which was tabled on behalf of Senator Austin by Senator Stratton on September 19.

The chamber debated the report on September 25, and during that time a series of questions arose. I should like to try to deal with them individually. Senator Murray raised the point that his copy of the *Rules of the Senate* had no mandate set out for the committee. That is understandable because the last reprint of the *Rules of the Senate* was in February 2001 and, of course, the committee has been established since that time. That would explain the absence of the committee in the listing.

The next question was a question that I believe is perhaps more fundamental and it had to do with whether this committee interfered with the mandate of other standing committees. I have discussed the issue with a variety of colleagues in the Senate. I have been in touch with all of the chairs of committees that might in any way overlap with this committee. I believe that coordination and cooperation between committees is of considerable importance.

As everyone in the chamber knows, defence issues have been removed from the mandate of the Standing Senate Committee on Foreign Affairs and placed with the Defence Committee. As a result, I had a discussion with Senator Stollery. We have also discussed the desirability of ensuring that we cooperate and communicate on the work of the committee to endeavour to minimize or eliminate duplication. I did not talk to the Chair of the Standing Senate Committee on National Finance, who is here in the chamber, but I will comment on his committee later.

• (1610)

I spoke to Senator Bacon regarding the Standing Senate Committee on Transport and Communications. We had a discussion of the work that the committee is undertaking as it relates to ports and ports security. When I comment further on the budget in a moment, I will point that out in terms of whom we are meeting and whom we are seeing.

I have had communications with Senator Milne. I have spoken to her twice. In fact, she came back to me as recently as today commenting on an issue that related to her committee. She does not see any conflict at this time. We undertook to continue to talk about the matter.

Interestingly enough, the Standing Senate Committee on Banking, Trade and Commerce is responsible for customs and excise. I have been in touch with Senator Kolber. His interests in customs and excise has to do with how high taxes are and how often they are imposed. He has indicated that he does not see any conflict with us being concerned about customs officers being the first line of defence when people are coming into the country. They are the first people who are doing the interviews. He does not foresee the Banking, Trade and Commerce Committee examining that question within its mandate.



Finally, I wish to refer to the Standing Senate Committee on Social Affairs, Science and Technology. I should note for the benefit of honourable senators that responsibility for the Veterans Affairs Committee has been transferred from the Social Affairs, Science and Technology Committee to the Defence and Security Committee by way of motion. The other area of possible overlap is immigration. Our interests have nothing to do with the size of immigration, family reunification or issues like that. They have to do with questions that come up in relation to terrorists who might immigrate here, and whether the system is secure and safe.

I also asked the Library of Parliament to go back to the second session of the 34th Parliament, which dates back to April 3, 1989, to review all the committee work that might in any way conflict with the mandate that the committee we are discussing has. Their examination appears to be thorough. They noted that in the first session of the 37th Parliament, the National Finance Committee took a look at the Canada Customs and Revenue Agency. They noted that the Foreign Affairs Committee took a look at the changing mandate of NATO in the second session of the 36th Parliament. In the first session, they also noted that the National Finance Committee looked at Canada's emergency and disaster preparedness.

Then there was Senator Kelly's special committees which had a fairly significant overlap with the work of this committee. In fairness, he was looking at terrorism, and that inevitably relates to this situation. However, that was a special committee which no longer functions.

The Standing Senate Committee on Foreign Affairs in that Parliament also had a reference to look at the changing mandate of NATO, as well as Bill S-22, an act authorizing the United States to pre-clear travellers and goods into Canada with Revenue Canada. They also undertook a study of the growing importance of the Asia-Pacific region, which included the Department of National Defence. The Standing Senate Committee on Legal and Constitutional Affairs examined Bill C-18 to amend the Customs Act.

In the 34th Parliament, there was a report on matters relating to national security by the Standing Senate Committee on Foreign Affairs. The final reference was to the National Finance Committee in the second session of the 34th Parliament, which looked at the Supplementary Estimates of the Department of National Defence.

That takes us back a little over a decade in terms of what work might have come close to what the Senate has decided will be the mandate in a general sense.

**The Hon. the Speaker:** I regret to advise Senator Kenny that his allotted time has expired.

**Senator Kenny:** Honourable senators, might I have leave to continue?

**The Hon. the Speaker:** Is leave granted, honourable senators?

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, could Senator Kenny indicate how much time he needs to finish his comments?

[English]

**The Hon. the Speaker:** After I put the question as to leave, there was a request for an explanation.

**Senator Kenny:** Honourable senators, I will be a further five to ten minutes at the maximum.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Senator Robichaud:** Honourable senators, let us say seven minutes, which is between five and ten.

**The Hon. the Speaker:** We need to be more precise, Senator Robichaud. Is it five or ten?

**Senator Robichaud:** I said seven.

**Senator Kenny:** I will take seven, honourable senators.

The next question relates to a comment made by Senator Murray. He said, "However, I saw in the Halifax press only a couple of weeks ago that this committee was expected to travel to Halifax to commence a study on national security matters consequent upon the events of September 11, 2001 in New York." That simply is not the case. I have before me all of the press clippings that we have been able to collect through our collection organizations. They are accurate. I also have a copy of the press release that we issued in advance of the trip. As well, I have a copy of the notice of cancellation of the trip.

I might add that all of the press coverage has words to the effect that I express the hope that the visit could be rescheduled sometime in the near future when the department had less pressing concerns to deal with. That was in both the French and English coverage of it. I would be happy to make this coverage available to any interested senator. We have done an exhaustive search. I can assure honourable senators that there was no press release or report that we can find anywhere suggesting that we were undertaking a study of the events of September 11.

There were other questions that came forward in relation to the terms of reference. I have already cited the reference that we have. There were questions about whether we had authority to travel, which we did when the committee received its budget. That took place on May 28. The budget was reviewed by the Defence and Security Committee on June 5. It was examined by the Subcommittee on Budgets of the Internal Economy

Committee. On June 7, it was approved by the entire Internal Economy Committee. On June 7, it was also reported to the chamber. It included the powers to travel, together with the first tranche of the budget. The first report was approved and adopted on June 11. The second report is before honourable senators now, and that is what I am speaking to now.

I should like to speak briefly to the value of travelling. If I point out what we learned on our trip to Halifax, honourable senators will get a better sense of what the committee is about. The program reflects quite well not only how we are trying to go about our work but why it is important to travel. The first event we had was a briefing on Maritime Forces Atlantic by Admiral MacLean. It included an update on the fleet status, the command structure, the deployment strength, and underwater intelligence-sharing. We also had a briefing on sea-to-shore ratio, drug-alcohol abuse, family violence, support mechanisms for families, women at sea and women in submarines. We then had a briefing from Brigadier General Mitchell on land forces in the Atlantic region and a briefing on the quality of life issues as they affected land forces.

• (1620)

We then visited the frigate HMCS *Toronto*. Our first event on the frigate was to have lunch with other ranks. The committee was to break up into groups with one or two of the junior ranks and lunch with them in their mess to hear about their concerns directly.

There was then a visit to HMCS *Summerside*, a marine coastal defence vessel. Our concern there was the reserves and how they were working in the navy. We had a tour of the fleet maintenance facility and then visited HMCS *Victoria*, a new submarine, had a tour of the dockyard and then conducted informal discussions into the evening with senior officers and senior enlisted men.

The next day we were going to the naval forces operation school where we were to look at the NAV trainer and the operational refresher team. We were then to go to the rescue centre and then on to Shearwater, where we were to have lunch with other ranks, followed by a Sea King familiarization flight. We were then to have a static tour of the Aurora with the squadron, and visit with the squadron personnel.

The next morning, we were meeting with Chief Superintendent Atkins of the RCMP; Chief David MacKinnon of the Halifax police; and Mr. John Feagan, Director of Intelligence and Contraband, Atlantic Region, Canada Customs and Revenue Agency, for a briefing on port security. We were to visit the security wing of the port and the police office and look at information maps, charts, the warehouse and the container dock.

That afternoon, we were meeting with retired admiral Murray and his staff on Veterans Affairs to get a briefing on their department, the clientele, the health care for traditional veterans,

the elderly, health care for emerging Canadian Forces veterans, First Nations veterans and commemoration issues.

We were then going to Gagetown to look at the combat training centre, to visit the infantry school and the artillery school, to have a briefing on quality of life issues, to have lunch with junior non-commissioned officers and to have a discussion with two RCR soldiers who have recently returned from Ethiopia and Eritrea. We were then to look at the new light armoured vehicles. We were to finish our visit by looking at the new Griffin helicopters that have been supplied to our Armed Forces.

Honourable senators, that recitation has taken me longer to go through than most of you want but it accurately reflects both the work and the interest that the committee has. I would be happy to address any further issues that might come forward.

**Hon. Lowell Murray:** Honourable senators, I should like to intervene at this point. I have some concerns about this matter. I want to voice them and then ask you to take them into consideration before we proceed much further.

This is the place to voice those concerns. It is in this chamber, in the Senate as a whole, that we create committees. This is the body that defines the role of the various committees. This is the body that grants them a budget to operate. If I have any reproach to offer, it is to ourselves here in the Senate because I believe that we have let this matter get somewhat out of hand, beginning with the creation of the committee.

The honourable senator has put something of a chronology on the record. I thank him for that. I will have to refer to it again if only because I do not draw the same conclusions from those facts as he does. It was on March 15 that we created the Defence and Security Committee. We did so by adding a new subsection, rule 86(1)(r). As the chairman has pointed out, we simply created a Standing Senate Committee on Defence and Security composed of nine members, four of whom shall constitute a quorum, to which may be referred, as the Senate may decide, bills, messages, petitions, inquiries, papers and other matters relating to national defence and security generally, including veterans affairs.

I think honourable senators will appreciate that that statement of the role of the committee — I call it a mandate — is rather sparse, compared to the provisions that are found elsewhere in our rules with regard to committees. You have only to look at rule 86(1)(h) concerning the Foreign Affairs Committee; or rule 86(1)(j) for the Standing Senate Committee on Transport and Communication; or rule 86(1)(k) on the Legal and Constitutional Affairs Committee; or rule 86(1)(l) on the Banking, Trade and Commerce Committee, to see that in all these cases, and in the case of social affairs, agriculture, and so on, there is a lengthy and detailed list of matters — much more detailed and much more precise than the rather sparse and general description of the role of this committee. Perhaps that is why we may be getting into some difficulty with this committee.



As the chairman has pointed out, on May 31 there were four motions before us in the name of the chairman concerning this committee. Two of those motions might be considered rather routine, one having to do with the engagement of staff and the other with regard to possible electronic coverage of its proceedings. There were two other motions, however, to which I want to refer. One was the motion to change the name of the committee. At that point, the chairman of the committee, Senator Kenny, told the Senate, as reported on May 31, 2001, that:

The purpose of the change is to more accurately reflect the work and mandate of the committee.

There is that word "mandate" again. Senator Kenny continued by saying that the committee would:

— study issues such as terrorism further to the work that was carried on by our former colleague, Senator Kelly. The committee's mandate also includes matters relating to police services and emergency preparedness. It was the feeling of the committee that this descriptor better fits the work the committee is doing."

That motion to change the name of the committee went over to the Rules Committee and is back here now. The debate has been adjourned in the name of Senator Stratton. I simply make the point here that the statement I have just read from Senator Kenny, referring twice — at least twice — to the "mandate" of the committee and outlining issues that are included in the "mandate" of the committee, is considerably more expansive than the new rule 86(1)(r).

I fast forward now, honourable senators, to a meeting of the Rules Committee on June 13. This is where I woke up to this issue. On June 13, toward the end of the day, we were considering this very motion to change the name. Senator Kenny said that:

The committee felt that the suggested name would more accurately reflect the work of the committee. We feel that the ambit of national security more accurately describes the work that the committee envisioned, and that we assume this committee —

— and by that he meant the Rules Committee —

— envisioned when it put forward its initial report.

• (1630)

A little later, he said:

We anticipate connections with the following organizations: the Communications Security Establishment; the Defence Science Advisory Board; the Department of Defence Ombudsman; reserves; cadets; benevolent funds; Veterans Affairs; the Solicitor General, as it related to policing; the National Security Directorate; the Department of the Solicitor General; the RCMP, as it related to national security issues and the protection of the state; Canada Customs and Revenue Agency as it related to secure borders

and people penetrating the borders, and the relationship that customs and immigration has with the police and, sometimes, with the Department of Defence.

Again, that is even more expansive than the statement that my friend had made here on May 31.

I identified four or five other committees whose mandates — dare I use the word — would be affected by my friend's interpretation of the work of his committee.

I am glad to hear that he has been in touch with the chairmen of these committees. That is a start. They will speak for themselves, no doubt. I will be interested to hear what they have to say. However, I hope I can say, without being offensive, that committees are not fiefdoms belonging to their chairmen. It is the Senate as a whole that decides on the role of a particular committee. It is up to the Senate to decide whether, for example, parts of Solicitor General issues, which ordinarily would be under the Standing Senate Committee on Legal and Constitutional Affairs, or parts of Customs and Excise that would be somewhere else, or Immigration issues that would be somewhere else, ought to be taken away from those committees and referred to a new committee. If that is to be done, then let us do it, but let us do it after proper consideration and debate in this place.

The other motion that Senator Kenny had before us on May 31 was the one to which he referred a few minutes ago to authorize the committee to conduct an introductory survey of major security and defence issues facing our country, with a view to preparing a detailed work plan for future comprehensive studies.

So far, so good, I guess, although I do find it extraordinary that we should have created a new committee with skeletal terms of reference and then told the committee to, as my friend said, do its homework as to what the role of the committee is to be. It seems to me that we have somehow reversed the proper process. If we want a new committee, we should decide what the role of the committee will be, incorporate it into our rules, give them a budget and let them go ahead. We seem to be going about it in somewhat reverse order, I believe.

An introductory survey, in any case, is an extraordinary way to go about it. The proposal is that the committee will do some homework and come back to us with a proposal on its program. That is fine as far as it goes.

Senator Forrestall, when he spoke here on September 25, said, at page 1296 of the *Debates of the Senate*:

In the beginning, the essential consideration with respect to the use of the term "security" was security as it pertained directly or, on occasion, indirectly to the activities of the Canadian Armed Forces and the requirements of Canada's Armed Forces by the Government of Canada and as dictated by other requirements, such as aid and the direction of government itself. When we have completed our first round, which is a familiarization exercise as much as anything else, the question of mandate in future would then be far better discussed than it would be at this point in time.



I would agree with Senator Forrestall as to the interpretation of that motion on the introductory survey, but I say that it is considerably less expansive than the view that Senator Kenny took here in the Senate in June before the Rules Committee and, indeed, today as to what his committee will be about.

Finally, I come to today's motion. Someone will correct me if I am wrong about this, but I see that it says in the second report:

On June 11, 2001, the Senate approved the release of \$100,500 to the Committee. The report of the Standing Committee on Internal Economy, Budgets and Administration recommending the release of additional funds is appended to this report.

Then we have Appendix (B) to the report asking for the release of additional funds to a total amount of \$95,500. Am I reading that correctly? Is the \$95,500 in addition to the \$100,500 voted, or is the \$95,500 part of that \$100,500? Does anyone know?

**Senator Kenny:** It is in addition.

**Senator Murray:** Honourable senators, let us look at this. We have spent \$196,000 so that the committee can figure out what to do. I do not think this is a sensible way to proceed. I think this is excessive, senators. I really do. This is \$196,000 for the committee to, as my honourable friend said, do its homework. I was as impressed as I am sure all senators were with the lengthy and varied program that they were proposing to conduct on their trip to Halifax, but for a committee that says it does not have the sufficient mandate it requires to do its homework, this is going quite far afield. This is really quite expansive and expensive.

I wanted to put those concerns on the table for honourable senators to consider. I do not want to be harsh with the committee, least of all with its chairman. I think the problem lies with ourselves. From the beginning, we have let this matter get out of hand. I do not know how we will get it back in hand, but I do know that before we vote on the adoption of this report, some serious consideration should be given to our direction. What are we trying to accomplish with this committee? What direction do we want to give to it in terms of our rules and in terms of mandate? What should the cost be?

**Hon. Tommy Banks:** Honourable senators, I am not now a member of the committee. Can the Honourable Senator Murray tell us which questions he is referring to in respect of the purview of the committee? I am not referring to the money now. When the idea for this committee was being first bootled about and then as the committee was created, it seemed that the Senate consciously set out to create a committee to deal with questions of defence. We knew we were dealing with defence in the traditional sense of the word and security in what we knew even then was a different sense of the word and in what has since become an even more different sense of the word.

Senator Murray raised questions about including aspects of the operations of the Solicitor General as they apply to CSIS, for example, or the CCRA as they apply to the importation of questionable goods or correspondence between persons of interest. Which of those issues does the honourable senator think could reasonably be removed from an examination of national security?

• (1640)

**Senator Murray:** My problem, honourable senators, is that we do not find in the rule that we adopted in creating the committee the following more expansive view, or different view, as you put it, that we are taking of security: the Standing Senate Committee on Defence and Security, to which may be referred bills, messages, et cetera, relating to national defence and security generally, including Veterans Affairs. It is only later, after this rule has been passed, that Senator Kenny tells us that the mandate is emergency preparedness, police services, terrorism and all these other issues. The last time that we had occasion to discuss security in the sense that Senator Banks is discussing it was when we set up special committees under former Senator Kelly to study the rather more expansive view of security.

Senator Forrestall's interpretation of the other day was more in line with my interpretation and more in line with what I thought we were doing back then when we created the committee. In talking about national security, it was national security in the sense of defence-related security and the role of the Canadian Armed Forces in that respect. I have no objection to going further afield if that is what we decide to do, but it seems to me that we have not created a committee with that mandate. We have created a committee with a more limited mandate, and before that committee goes out and creates its own mandate, we must have a serious debate here.

**The Hon. the Speaker:** I am advised by the people who keep time that the 15-minute time period for Senator Murray's intervention, comments and questions has expired. Is there leave to allow him to continue?

[Translation]

**Senator Robichaud:** Honourable senators, I am prepared to grant another seven minutes, as we did with the previous speaker, in order to allow Senator Murray to answer questions and finish his remarks.

[English]

**The Hon. the Speaker:** Leave is granted.

**Senator Banks:** Honourable senators, I would respond to Senator Murray by saying that there seems to be a different interpretation of what is meant by "security generally." I always understood "security generally" to mean security generally, and "generally" is an expansive word.

**Senator Kenny:** Honourable senators, I have two questions for Senator Murray. First, he has twice now mentioned the question of emergency preparedness. Is he aware that this function has been transferred to the Department of Defence and is now called the Office of Critical Infrastructure? Second, would he care to define for the chamber what he considers security to be, please?

**Senator Murray:** In answer to the first question, yes, of course I am aware of it. As my friend has mentioned, the Standing Senate Committee on National Finance, before my time, had undertaken a study of that matter in connection with the Estimates.

No, I would not care to define off the top of my head what I mean by "security." That is exactly why I want some consideration to be given by the Senate as a whole to a proper, detailed and specific mandate for my honourable friend's committee. That is why we need a debate here.

**Hon. Pat Carney:** Honourable senators, my intervention is in the form of a question. It is based on the fact that mandates in the Senate, in my 11 years' experience, are usually quite specific, if only to keep within budget constraints, and it is important that committees do not go beyond their mandate. In this case, since without a doubt the definition of "security" before September 11 and after September 11 has changed, at least in our minds, is it not reasonable to ask the Honourable Senator Kenny to possibly change his motion to more properly define the scope of the security that we face now after September 11? We would be more comfortable, would have a clearer mandate and would accomplish more if my friend's plans and procedures would accommodate events after September 11. It will not unduly delay the situation, but the definition and the responsibility and necessary work of the committee would be clearer.

**The Hon. the Speaker:** Senator Carney has put a question to Senator Kenny. It would be in order to ask the question of Senator Murray because he has seven minutes, less whatever has been used, of his time.

Is leave granted, honourable senators, for Senator Carney to put a question to Senator Kenny.

[Translation]

**Senator Robichaud:** Honourable senators, I am prepared to have a completely open debate in order to allow senators to express themselves. Senator Murray had the floor. Questions and comments must be put to Senator Murray. If we allow questions to be asked of other senators, then Senator Murray will lose the time he had left to answer questions, and we will end up with a difficult debate.

[English]

**The Hon. the Speaker:** I take it leave is not granted. Perhaps Senator Murray wishes to comment.

**Senator Murray:** I agree with what Senator Carney has said. My problems with this report are two. One is that what is being proposed goes, in my view, well beyond the rule that we adopted when we created the committee. We need a broader discussion of that before we proceed so that the rule is more expansive.

My second problem, and it is serious, relates to the budget. It is quite expensive. We are talking about \$196,000 for a committee that we have just created to go figure out what its mandate and role is to be. I think that is excessive.

[Translation]

**Hon. Roch Bolduc:** Honourable senators, I thought I understood during the course of the debate that we were adding issues of terrorism to the concept of security. As Senator Carney says, if we include it here, it is precise and restrictive. Could the senators who are members of the Foreign Affairs Committee debate the aspects of foreign policy arising from terrorism? If terrorism is examined by the Committee on Security, the Foreign Affairs Committee will not be able to touch it, whereas, in my opinion, most of the problems related to terrorism are matters of foreign policy.

**Senator Murray:** Honourable senators, we must reflect before proceeding with this motion. We must debate it in the Senate. The respective roles of the Foreign Affairs Committee and of Senator Kenny's new committee must be clarified.

[English]

**Hon. Laurier L. LaPierre:** Honourable senators, if logic prevails and if we have a committee on defence and on security, surely all the institutions and bodies Senator Kenny has mentioned are part of the process of determining what the issues are all about. With all due respect, should we continue to fiddle while Rome is burning?

• (1650)

**Senator Murray:** Honourable senators, it is not I who am fiddling. The committee itself proposes to do its homework at a cost of \$196,000 before embarking on something more substantive, at which point one assumes they will be into real money.

**The Hon. the Speaker:** I regret to advise that Senator Murray's time has expired.

**Hon. Jack Wiebe:** Honourable senators, I get the feeling that for some reason we are using the request for additional funds to open up an area of concern about what the committee should or should not be doing in the future. I think that is very wrong.

The committee is acting under the mandate given to it by this chamber. This chamber agreed to allow the committee to "conduct an introductory survey of the major security and defence issues facing Canada with a view to preparing a detailed work plan for future comprehensive studies."



Our first work is to conduct that survey and present a detailed plan. I am sure that all members of the committee from both sides of the house believe strongly that the work of this committee is essential. Things may have changed in view of September 11, but that should not detract from the mandate that this chamber has given. If members of this chamber have concerns about which committee should be studying what, let those members introduce a separate motion to deal with that issue. Let us not cloud the issue with two or three different things. The committee is working and following the mandate given to it by this chamber. I suggest we allow it to do its work and make its report. If there are members who believe that this committee should not be studying certain issues, but that other committees should instead be studying them, let them move a motion accordingly.

**Senator Carney:** Honourable senators, I have just returned from a week of talking to British Columbians. They believe that the government has done very little to cope with the reality of September 11; that the Liberal response to the events of September 11 has been meagre, to say the least.

I endorse Senator Murray's concerns about this matter. I think that to proceed with Senator Kenny's motion to set the terms of reference for a situation that is viewed by Canadians, if not the government, as extremely serious would not be in our interest. There should be some recognition of reality. Senator Kenny and his committee might wish to take into account the sage wisdom of Senator Murray and proceed on the basis that they will be dealing with the concerns of Canadians rather than just setting out an expensive work plan to define an agenda. Every Canadian that I know of knows what the agenda is and what their concerns are. They would like to see the government, including the Senate of Canada, address those concerns.

On motion of Senator Stratton, debate adjourned.

[Translation]

## TRANSPORT AND COMMUNICATIONS

### MOTION TO AUTHORIZING COMMITTEE TO STUDY MEASURES TO ENCOURAGE FRENCH-LANGUAGE BROADCASTING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of Senator Gauthier, seconded by Senator Gill,

That the Standing Senate Committee on Transport and Communications be authorized to examine and report upon the measures that should be taken to encourage and facilitate provision of and access to the widest possible range of French-language broadcasting services in

francophone minority communities across Canada.—(Honourable Senator LaPierre).

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I have permission from Senator LaPierre to take part in the resumption of the debate on the motion by Senator Gauthier, which stood in his name. It is agreed that the motion will stand in the name Senator LaPierre.

Honourable senators, I support Motion No. 65 introduced by Senator Gauthier on September 19.

My support for this motion is partly based on the CRTC's report entitled "Achieving a Better Balance." This report mentions the numerous concerns of various francophone communities in Canada. These communities not only condemned the inequality of service and the difficulty of having access to French-language broadcasting services, but also deplored the lack of content reflecting their own realities. Various associations and individuals expressed their concerns about this inadequate reflection of the communities in which they live. As you know, these communities are often small and located in rural areas. This is why, in its 2000-2001 annual report, the Fédération des communautés francophones et acadienne du Canada condemned the following:

The first request seeks to free small Class 3 (2,000 subscribers or less) cable companies from a whole set of obligations to the CRTC and the public, including exempting these companies from the broadcasting licence renewal process.

Senator Gauthier also mentioned it in his September 19 presentation:

The other request seeks to broaden the definition of a Class 3 (2,000 subscribers or less) cable company, which would significantly broaden the scope of the first application.

Of course, the FCFA is opposed to these applications and it has asked the CRTC to reject them because, among other reasons, the renewal process is a unique opportunity to examine the behaviour of a cable company.

In the 2000-2001 report, the Commissioner of Official Languages says the following, and I quote:

In 2000-2001 the CRTC handed down certain decisions that were inconsistent with the government's commitment to enhance the vitality of official language minorities and advance the equality of English and French in Canadian society.

It should be pointed out that the CRTC rejected TVOntario's request asking that the broadcasting of its French-language network (TFO) in Quebec be guaranteed.



The CRTC also refused to deliver a broadcasting licence to a French-language community radio project in Toronto. Yet community radio allows minority communities to be informed and to communicate in their own language. It is an excellent tool to break the isolation of these communities.

Honourable senators, as a senator from New Brunswick, I endorse the concerns and representations of the FCFA, of the Commissioner of Official Languages and of many Canadians.

We want to have an accurate picture of the realities of the various francophone and Acadian communities across the country. We want to have access to a larger number of broadcasting services and quality programs in French, and we want a better reflection of our communities by conventional public and private broadcasters in the education, specialized and community sectors.

• 1700

I sincerely hope that the discussions that will take place at the Standing Senate Committee on Transport and Communications will lead to proposals that will be carefully reviewed to make sure that they help the promotion and economic development of francophone and Acadian communities.

On motion of Senator LaPierre, debate adjourned.

[English]

## THE NATIONAL ANTHEM

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poy calling the attention of the Senate to the national anthem.—(*Honourable Senator Spivak*).

**Hon. Mira Spivak:** Honourable senators, I am pleased to speak to the motion and in support of the change to our national anthem that Senator Poy is proposing. I will be brief because previous speakers have advanced much of the case.

During our summer recess, there has been considerable public debate about the proposal to change the few words in our anthem that strike many Canadians as being antiquated and exclusionary of women. The news media has carried scores of items about the proposal, each of them prompting letters to the editor, both in favour and opposed to the legislation.

Polls have been conducted. The results do not appear to show that a majority of Canadians see the need to replace the words "in all thy sons command" with words that clearly include women, but it is young women who feel most strongly that it is a time for change. That is significant.

As one might expect, those in favour of the status quo are those who have sung the words for decades without thinking that they reflect a society in which the roles, responsibilities and opportunities for women were very different from that what they are today. It is young women who recognize and feel the anomaly. They know that Canada has matured into a nation where women are full partners in our society, in the professions of law and medicine, commerce and finance, in the functioning of our institutions, including those of the federal government and our work here in Parliament, and the military. They feel that to sing the words that suggest only "sons" build and defend our country is a bit strange.

The letters from young women and newspaper columns written by young women are persuasive. I should like to quote one of them.

Catherine Clark, daughter of the Leader of the Progressive Conservative Party, in her first column in *The Toronto Star* this summer wrote:

I was 14, sitting on Parliament Hill in the presence of Her Majesty the Queen on a sunny 1992 Canada Day, when I realized that my national anthem left me out...

...the lyric "in all thy sons command"...didn't refer to me, or to anyone of my gender. When it was first written, the verses made sense, because it was how people thought and spoke at the time. But it didn't make much sense to me as a teenage girl reading it in the last decade of the 20th Century....

It's not a matter of being politically correct, it is a matter of realizing that almost a century has gone by since the anthem was first written. Just as we would reinforce the foundation of an aging house to keep it standing, we need to reinforce the meaning of "O Canada," to make it relevant to all Canadians.

Honourable senators, we need to ponder these thoughts and consider whether this small but significant change to the words of our anthem can do more good than harm.

Of course, most recently, we have the event of the tragic and horrific suicide bombings of the World Trade Center in New York and the Pentagon in Washington. As so many have said, the world has changed.

One of the small changes was evident here on Parliament Hill in the sombre ceremony on September 14, when 100,000 people gathered quietly to mourn and to show support for our American friends. Two anthems were sung at that brief ceremony — our own and the *Star Spangled Banner*. Both moved many people in that assembly to tears, as no doubt they did for many of the millions of Canadians who watched the ceremony on television.

The words in our anthem that rang as clear as the bell of the Peace Tower were not the words we are considering in this motion. The words "glorious and free" touched the hearts of Canadians, reminding us of what we hold so dear and what we now fear is threatened. It was a striking reawakening of the power of the national anthem to give voice to our values, to move our hearts and to unite our diverse people in our deepest hopes and prayers.

In happier times, when the anthem is played as a Canadian athlete wins an Olympic medal, for example, it evokes not just national pride but kinship. For a brief moment, Canadians can feel one with the joy of the man or the woman who competed as a member of the Canadian team.

An anthem is more than inconsequential words and a tune to hum along, as some have suggested. It is an expression of who we are, of what we stand for and of our desire to stand together. If a few antiquated words exclude half our population and are felt as exclusionary, particularly by young women, I am sure that we can be mature enough to make that small change.

On motion of Senator Cools, debate adjourned.

## CABLE PUBLIC AFFAIRS CHANNEL

CLOSED-CAPTIONING SERVICE—INQUIRY—  
DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the current negotiations on the renewal of the broadcasting agreement between the Senate and CPAC (the Cable Public Affairs Channel) to ensure that they include the closed-captioning of parliamentary debates authorized for television, and that the renewal of this agreement reflect the commitments made by CPAC on services for the hearing impaired.—(*Honourable Senator Kroft*).

**Hon. Richard H. Kroft:** Honourable senators, my remarks today on this inquiry will be brief. I do, however, want to take this opportunity to make a few points clear to this chamber.

Your Internal Economy Committee is seized of this matter and serious negotiations are underway with CPAC concerning a wide range of issues, including closed-captioning.

In conducting these negotiations, the committee and officials are very mindful of the obligation the Senate has to communicate with all Canadians, and particularly of the recommendations of the Standing Joint Committee on Official Languages contained in its report of May 2001.

Beyond the specific point of closed-captioning, your Internal Economy Committee is working with the administration of the Senate to explore a wide range of new technologies, with a view to enhancing communication within the chamber, within committees and with Canadians broadly. Senators should be aware that the Senate is the leader in the transmission and translation of debates, and we are seeking every opportunity to put this capacity to the service of the Senate and to the public.

Honourable senators, I undertake to keep the chamber advised of our progress and, to that end, would ask to adjourn the debate in my name for the balance of my time.

On motion of Senator Kroft, debate adjourned.

## QUESTION OF PRIVILEGE

**The Hon. the Speaker:** Honourable senators, we have now come to the point in our proceedings where, under rule 43(8), we take up consideration of the Question of Privilege of which Senator Cools gave notice under Senators' Statements as required under the *Rules of the Senate*.

• (1710)

**Hon. Anne C. Cools:** Honourable senators, that I shall not be proceeding, I think is obvious to most senators at this point in time. I had given written notice this morning as per the rules. During Senators' Statements I gave the required oral notice. I indicated at that time that I would be speaking.

I must say now to honourable senators that I will not be speaking as I had indicated, mainly because Senator Hays' ruling has overtaken my question of privilege. One could say events here in the chamber have overtaken my question of privilege. I had intended to raise some questions that, essentially, His Honour has ruled on.

I had hoped, in the circumstances of my notice, that perhaps His Honour could have waited an hour or two before he ruled on Senator Lynch-Staunton's question of privilege. It would have given me more scope. However, under the circumstances, since he has ruled on some of the matters that I had wanted to raise, it would be better to proceed on another day, at another time.

Even so, honourable senators, perhaps I shall rethink whether I wish to proceed under this particular rule at all or whether I wish to proceed, with notice, under other rules that provide for the giving of notice and then the moving of a motion under another set of circumstances.

Honourable senators, I shall not be proceeding under this rule today.

**The Hon. the Speaker:** We will now proceed with the balance of our Notice Paper.



## INTELLECTUAL PROPERTY RIGHTS OVER PATENTED MEDICINES

INQUIRY—DEBATE ADJOURNED

**Hon. Sheila Finestone** rose pursuant to notice of June 14, 2001:

That she will call the attention of the Senate to three diseases which are sweeping the developing world and which draw many to ask whether intellectual property rights over patented medicines haven't taken precedence over the protection of human life.

She said: Honourable senators, imagine that you are living in a developing country where you have barely enough money to feed yourself, let alone buy expensive prescription medications from the West. Imagine that a member of your family is gravely ill. What would you do?

For billions on our planet, this is not a theoretical consideration. Here are the facts about three major diseases that are decimating the developing world, namely, tuberculosis, HIV-AIDS and malaria. Most of the statistics I am about to share with honourable senators come from the World Health Organization, but much of it is from a visual understanding, having visited some of these countries.

Every year, tuberculosis kills 2 million people throughout the world, with another 8 million new cases developing each year. As unbelievable as this may sound, it is estimated that 2 billion people in the world are infected with TB, out of which almost 200 million will develop the disease. What is most disturbing is that medical experts are beginning to see the rise of a virulent drug-resistant strain of TB, thanks in part to both the impaired availability and the improper use of the antibiotics required.

What is particularly worrisome is that, unlike HIV-AIDS, which is transmitted through the exchange of infected blood or semen, tuberculosis, as some know, is transmitted through proximate airborne contact.

Let us consider HIV-AIDS. In the last two decades, it has killed 22 million people — a little more than 1 million people a year worldwide. Ninety per cent of the cases are found in the Third World. In Africa, the disease has orphaned 12 million children. In light of what has taken place recently, these figures are stunning. They bring the changes that have taken place in the world into better focus.

In South Africa, one of the continent's most developed countries, one out of every five adults is infected. However, unlike tuberculosis, there is as yet no cure for the disease, only prohibitively expensive life-prolonging drugs.

Malaria is a medical health problem in more than 90 countries, home to 2.4 billion people or 40 per cent of the world's population. Of this population, 500 million become infected or are reinfected with malaria each year. More than 1 million

people die from one of the four strains of the disease per year. Of this group, 700,000 are children under the age of five. In fact, malaria kills one child every 30 seconds — a death toll that far exceeds the mortality rate from AIDS.

The average African child under five gets malaria six times a year. Some children die less than 72 hours after developing symptoms. In those who survive, malaria drains vital nutrients, serving to impair their physical and intellectual development. Malarial sickness is also one of the principal reasons for poor school attendance.

When stacked together, tuberculosis, HIV-AIDS and malaria kill 4.1 million per year. In just eight years that represents the entire population of Canada being wiped off the face of the earth.

While our government has earmarked \$204 million to combat each of these diseases through a variety of initiatives, I wish to draw to the attention of honourable senators that, excluding HIV-AIDS, less than 1 per cent of current research and development is producing drugs aimed at combating tropical diseases.

In June of this year, the *Financial Post* reported on the clash that was unfolding between the WTO's African members and transnational pharmaceutical giants over the WTO's current intellectual property agreements. Their main complaint was the dramatic and continual rise in drug prices, a rise which they feel is driven by existing patent protection guarantees. Not surprisingly, the pharmaceutical industry states that patents are not the problem.

While it is true that the WTO's Trade-related aspects of Intellectual Property Agreement, or TRIPS, makes allowance for a patent override when an exceptional health crisis exists, the World Health Organization maintains the patent override provision is simply not being used. Why?

Agencies such as Oxfam and Médecins Sans Frontières say it is due to the WTO's introduction and stringent application of patent protection for drugs to developing countries since the year 2000. This, in turn, has pushed patent drug prices through the roof. Because rising drug prices reduce access to treatment, this, in turn, causes tropical disease rates to rise in the developing world.

When it comes to the spread of disease, there are no borders. Let us consider the West Nile virus. In just two years, it migrated from New York City to Toronto. Can malaria or other tropical diseases be far behind?

Illegal immigration from developing nations to Europe, Australia, the United States and Canada is also of great concern. Canadian health officials have twice gone on high alert in recent years. The first such case was when several Tibetan refugees from India were found to be carrying a drug-resistant strain of TB. More recently, a woman from Africa was thought to be infected with the highly contagious Ebola virus.



Recent events in New York and Washington, and recent news of the possible use of crop-dusting planes to spread dangerous biological agents, has added a new wrinkle. I suggest that it is just a matter of time before a kamikaze terrorist, deliberately pre-infected with a highly contagious virus, arrives on North American soil.

As far back as 1970, a WHO committee estimated that if 50 kilograms of a bug called *Francisella tularensis* were released into the air over a city of 5 million people, 250,000 would be incapacitated, of which 19,000 would choke to death. The emergency rooms of our hospitals, which are already overtaxed, would become a nightmare. To learn more, senators should refer to a short *Toronto Star* article on bio-terrorism found in its September 16 addition.

• (1720)

What we need to realize is that the West's preoccupation with the development of medications tailored to North American afflictions, such as impotence, has left us vulnerable to tropical diseases that we, in our complacency, seem to have ignored.

In Dickens' *A Christmas Carol*, Scrooge sees two children flanking each side of the ghost of Christmas future. Scrooge asks what they symbolize and is told that one is "want" and the other "ignorance." "Beware them both" says the Spirit, "but beware this boy called ignorance, for on his brow is written doom, unless the writing is erased."

In February of 1844, soon after *A Christmas Carol* was first published, Dickens delivered a speech at a Birmingham university. In it, he said:

Now there is a spirit of great power, the Spirit of Ignorance, long shut up in a vessel of obstinate neglect, with a great deal of lead in its composition, and sealed with the seal many, many Solomons... Release it in time and it will bless, restore and re-animate society; but let it die under rolling waves of years, and its blind revenge at last will be destruction.

Have we inadvertently become party to a great sin of omission? What about our current laws on intellectual property? What about their relation to prescription drugs? What are the impacts of our support of the pharmaceutical industry on the Third World? Twenty years. Remember that?

Do we believe the TRIPS agreement is serving humanity as well as we had hoped, or have we sown the seeds of ignorance and want in lands far away, seeds whose fruits called "doom" have almost ripened?

As I alluded to earlier, even at home, we Canadians are beginning to feel the sting of our policies in terms of rising

health costs. The Patented Medicine Prices Review Board reports that in the four years from 1995 to 1998, sales of patent drugs as a percentage of total drug sales rose from just under 44 per cent to 55.1 per cent of total health-related spending. Health Canada reports that in 1996 — and that is my latest available figure — a whopping 45.8 per cent of Canada's medical expenditures came in the form of prescription drugs. From 1999 to 2000, the cost of patent medicines increased 16.7 per cent, and this at a time of low inflationary pressure. Sales of patented drugs in the year 2000 topped \$6.3 billion, or 63 per cent of all drug sales for human use in Canada.

According to the August 2001 edition of the *Canadian Medical Journal*, pharmaceuticals represent the fastest growing component of Canadian health care costs, showing growth rates three times the annual rate of inflation. No wonder we hear of seniors on fixed incomes having to make a choice between food and medicine! But again, imagine how much more challenging it must be for those living in the developing regions of the world.

Ironically, Canada continues to have the lowest prices for patented drugs in any of the industrialized nations, thanks largely to the Patented Medicine Prices Review Board.

Why, then, is there a rise in drug prices? A CMA official stated that it is a by-product of the longstanding R&D effort in medical science, spurred on by discoveries from the human genome project. Because new discoveries at the leading edge of science come with a price, it is a trend that is likely to continue. However, that is little comfort to the developing world, where TB, malaria and HIV-AIDS continue to decimate their world.

Les Médecins Sans Frontières have recommended a multi-prong, five-track approach. Track one would implement an "equity pricing" policy worldwide. Track two calls for the institution of various "Regional Procurement Authorities." Track three would allow for the entry of generic competitors into specific jurisdictions. Track four would force patent drug manufacturers to "license" local drug producers to make a specific range of drugs to combat high-threat diseases. Track five would enforce the TRIPS agreement safeguards.

While I doubt that I have time to elaborate on each of the five tracks mentioned, in what time I do have, let me sketch a quick picture.

Track one deals with implementing an equity pricing policy worldwide. Simply put, equity pricing — also known as differential pricing or market segmentation — looks at adjusting patent drug prices to the national economy in which they are used. For example, if the price of a particular antibiotic used in treating TB represents a single day's pay at minimum wage here in Canada, then the same principle would apply in the developing nation in question.

The downside of this approach is that to this point it has been purely voluntary on the part of transnational drug makers. What history has shown is that this has only worked after tremendous international public pressure was brought to bear on drug makers, pressure that began to tarnish the otherwise good name of these companies. Only then did the companies "voluntarily" adjust their prices. One fear is that lower priced patent drugs will fall into the hands of corrupt officials and find their way onto the black market.

In track two, "Regional Procurement Authorities" would negotiate a price for a particular range of patent drugs on behalf of an entire region such as Africa in exchange for granting a supplier access to a high-volume market.

Track three allows the entry of "generic competitors" in specific jurisdictions. This is a big hurdle because it flies in the face of existing intellectual property rights agreements to which developed nations have adhered. It could result in the "product leakage" across contiguous borders, destroying local market stability.

Track four would force patent drug manufacturers to "license" local drug producers to make a specific range of drugs to combat specific high-risk diseases. On the positive side, we are able to share technological know-how with various developing countries. On the downside, should a corrupt regime seize political power through undemocratic means, corrupt officials would again be in a position to pilfer supplies or, worse, divert drug-making capacity to the development of biological and chemical weapons.

Finally, we come to track five, enforcement of the TRIPS agreement safeguards. These provisions require patent drug

makers to either license or allow the parallel importation of generics into particular markets when a medical crisis warrants. This is where Canada comes in: We can help ensure that TRIPS agreements safeguards are not being ignored. We can do this by extending the mandate of Canada's own Patented Medicine Prices Review Board to include specific developing regions of the world where a particular medical crisis is deemed to exist. The review board could be empowered to work with parallel agencies among the G8 to ensure that a common approach was adopted by all developed nations in addressing TB, malaria and HIV-AIDS.

Another approach is to link the patents for new drugs to the adoption of new and R&D efforts in tackling specific tropical diseases. Drug companies would have to allocate a reasonable percentage of all profits stemming from new drugs to research on a targeted disease.

I could go on, honourable senators, but the important point is that we recognize the following: We now live in a world where the borders to diseases like the West Nile virus, Ebola, TB and possibly even malaria and many other horrors are beginning to disappear thanks to modern international air travel, illegal immigration, climate change and even terrorism. In this sense, we are all in this together. If we choose to ignore these considerations, then I fear that we have already given rise to the child of ignorance upon whose brow is written doom, a boy whose wrath, as Dickens prophesied, may well result in our own destruction.

On motion of Senator Poy, debate adjourned.

The Senate adjourned until Wednesday, October 3, 2001, at 1:30 p.m.





## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

**THE SPEAKER**

THE HONOURABLE DANIEL P. HAYS

**THE LEADER OF THE GOVERNMENT**

THE HONOURABLE SHARON CARSTAIRS, P.C.

**THE LEADER OF THE OPPOSITION**

THE HONOURABLE JOHN LYNCH-STAUTON

---

**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

**DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES**

GARY O'BRIEN

**LAW CLERK AND PARLIAMENTARY COUNSEL**

MARK AUDCENT

**USHER OF THE BLACK ROD (ACTING)**

BLAIR ARMITAGE

## THE MINISTRY

According to Precedence

(October 2, 2001)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. Herbert Eser Gray	Deputy Prime Minister
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Natural Resources and Minister responsible for the Canadian Wheat Board
The Hon. Brian Tobin	Minister of Industry
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Minister of Foreign Affairs
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Justice and Attorney General of Canada
The Hon. Allan Rock	Minister of Health
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Alfonso Gagliano	Minister of Public Works and Government Services
The Hon. Lucienne Robillard	President of the Treasury Board and Minister responsible for Infrastructure
The Hon. Martin Cauchon	Minister of National Revenue and Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Leader of the Government in the House of Commons
The Hon. Lyle Vanclicf	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Fisheries and Oceans
The Hon. Ronald J. Duhamel	Minister of Veterans Affairs and Secretary of State (Western Economic Diversification) (Francophonie)
The Hon. Claudette Bradshaw	Minister of Labour
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Maria Minna	Minister for International Cooperation
The Hon. Elinor Caplan	Minister for Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. Hedy Fry	Secretary of State (Multiculturalism) (Status of Women)
The Hon. David Kilgour	Secretary of State (Latin America and Africa)
The Hon. James Scott Peterson	Secretary of State (International Financial Institutions)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Gilbert Normand	Secretary of State (Science, Research and Development)
The Hon. Denis Coderre	Secretary of State (Amateur Sport)
The Hon. Rey Pagtakhan	Secretary of State (Asia-Pacific)



## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(October 2, 2001)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Winnipeg, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.

## ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Chestermere, Alta.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Sheila Finestone, P.C.	Montarville	Montreal, Que.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Raymond C. Setlakwe	The Laurentides	Thetford Mines, Que.
Yves Morin	Lauson	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Jim Tunney	Ontario	Grafton, Ont.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.

## SENATORS OF CANADA

## ALPHABETICAL LIST

(October 2, 2001)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérald-A.	Rigaud	Hull, Que.	PC
Bolduc, Roch	Gulf	Sainte-Foy, Que.	PC
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland	St. John's, Nfld.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doddy, C. William	Harbour Main-Bell Island	St. John's, Nfld.	PC
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finestone, Sheila, P.C.	Montarville	Montreal, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib
Johnson, Janis G.	Winnipeg-Interlake	Winnipeg, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib



## SENATORS OF CANADA

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Léger, Viola	New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauzon	Quebec, Que.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Setlakwe, Raymond C.	The Laurentides	Thetford Mines, Que.	Lib
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Taylor, Nicholas William	Sturgeon	Chestermere, Alta.	Lib
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Tunney, Jim	Ontario	Grafton, Ont.	Lib
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.	Ind

# SENATORS OF CANADA

## BY PROVINCE AND TERRITORY

(October 2, 2001)

### ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jerahmiel S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
19 Francis William Mahovlich	Toronto	Toronto
20 Vivienne Poy	Toronto	Toronto
21 Isobel Finnerty	Ontario	Burlington
22 Jim Tunney	Ontario	Grafton
23 Laurier L. LaPierre	Ontario	Ottawa
24		

## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber	Victoria	Westmount
2 Charlie Watt	Inkerman	Kuujuaq
3 Pierre De Bané, P.C.	De la Vallière	Montreal
4 Roch Bolduc	Gulf	Sainte-Foy
5 Gérard-A. Beaudoin	Rigaud	Hull
6 John Lynch-Staunton	Grandville	Georgeville
7 Jean-Claude Rivest	Stadacona	Quebec
8 Marcel Prud'homme, P.C.	La Salle	Montreal
9 W. David Angus	Alma	Montreal
10 Pierre Claude Nolin	De Salaberry	Quebec
11 Lise Bacon	De la Durantaye	Laval
12 Céline Hervieux-Payette, P.C.	Bedford	Montreal
13 Shirley Maheu	Rougemont	Ville de Saint-Laurent
14 Lucie Pépin	Shawinigan	Montreal
15 Marisa Ferretti Barth	Repentigny	Pierrefonds
16 Serge Joyal, P.C.	Kennebec	Montreal
17 Joan Thorne Fraser	De Lorimier	Montreal
18 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
19 Sheila Finestone, P.C.	Montarville	Montreal
20 Raymond C. Setlakwe	The Laurentides	Thetford Mines
21 Yves Morin	Lauzon	Quebec
22 Jean Lapointe	Saurel	Magog
23		
24		



## SENATORS BY PROVINCE—MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C. ....	The Highlands .....	Sydney
2 Michael Kirby .....	South Shore .....	Halifax
3 Gerald J. Comeau .....	Nova Scotia .....	Church Point
4 Donald H. Oliver .....	Nova Scotia .....	Halifax
5 John Buchanan, P.C. ....	Halifax .....	Halifax
6 J. Michael Forrestall .....	Dartmouth and Eastern Shore .	Dartmouth
7 Wilfred P. Moore .....	Stanhope St./Bluenose .....	Chester
8 Jane Cordy .....	Nova Scotia .....	Dartmouth
9 .....	.....	.....
10 .....	.....	.....

## NEW BRUNSWICK—10

THE HONOURABLE		
1 Eymard Georges Corbin .....	Grand-Sault .....	Grand-Sault
2 Brenda Mary Robertson .....	Riverview .....	Shediac
3 Noël A. Kinsella .....	Fredericton-York-Sunbury ...	Fredericton
4 John G. Bryden .....	New Brunswick .....	Bayfield
5 Rose-Marie Losier-Cool .....	Tracadie .....	Bathurst
6 Fernand Robichaud, P.C. ....	Saint-Louis-de-Kent .....	Saint-Louis-de-Kent
7 Viola Léger .....	New Brunswick .....	Moncton
8 .....	.....	.....
9 .....	.....	.....
10 .....	.....	.....

## PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter .....	Prince Edward Island .....	Charlottetown
2 Catherine S. Callbeck .....	Prince Edward Island .....	Central Bedeque
3 Elizabeth M. Hubley .....	Prince Edward Island .....	Kensington
4 .....	.....	.....

## SENATORS BY PROVINCE—WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak .....	Manitoba .....	Winnipeg
2 Janis G. Johnson .....	Winnipeg-Interlake .....	Winnipeg
3 Terrance R. Stratton .....	Red River .....	St. Norbert
4 Sharon Carstairs, P.C. ....	Manitoba .....	Victoria Beach
5 Richard H. Kroft .....	Manitoba .....	Winnipeg
6 .....		

## BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson .....	Vancouver .....	Vancouver
2 Jack Austin, P.C. ....	Vancouver South .....	Vancouver
3 Pat Carney, P.C. ....	British Columbia .....	Vancouver
4 Gerry St. Germain, P.C. ....	Langley-Pemberton-Whistler .	Maple Ridge
5 Ross Fitzpatrick .....	Okanagan-Similkameen .....	Kelowna
6 Mobina S.B. Jaffer. ....	British Columbia .....	North Vancouver

## SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow .....	Saskatchewan .....	North Battleford
2 A. Raynell Andreychuk .....	Regina .....	Regina
3 Leonard J. Gustafson .....	Saskatchewan .....	Macoun
4 David Tkachuk .....	Saskatchewan .....	Saskatoon
5 John Wiebe .....	Saskatchewan .....	Swift Current
6 .....		

## ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i> .....	Calgary .....	Calgary
2 Joyce Fairbairn, P.C. ....	Lethbridge .....	Lethbridge
3 Nicholas William Taylor. ....	Sturgeon .....	Chestermere
4 Thelma J. Chalifoux .....	Alberta .....	Morinville
5 Douglas James Roche .....	Edmonton .....	Edmonton
6 Tommy Banks .....	Alberta .....	Edmonton

## SENATORS BY PROVINCE AND TERRITORY

## NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6		

## NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

## NUNAVUT—1

THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

## YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse



## ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of October 2, 2001)

\*Ex Officio Member

## ABORIGINAL PEOPLES

**Chair: Honourable Senator Chalifoux****Deputy Chair: Honourable Senator Johnson****Honourable Senators:**

Carney,	Christensen,	Johnson,	Pearson,
*Carstairs (or Robichaud),	Cochrane,	Léger,	Sibbeston,
Chalifoux,	Gill,	*Lynch-Staunton (or Kinsella),	St. Germain,
	Hubley,		Tkachuk.

*Original Members as nominated by the Committee of Selection*

Carney, \*Carstairs (or Robichaud), Chalifoux, Christensen, Cochrane, Cordy, Gill,  
Johnson, \*Lynch-Staunton (or Kinsella), Pearson, Rompkey, Sibbeston, Tkachuk, Wilson.

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Chalifoux,	Hubley,	Oliver,	Tunney,
Fairbairn,	LeBreton,	Stratton,	Wiebe.
	Léger,		

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*Carstairs (or Robichaud),	Kelleher,	Meighen,	Setlakwe,
Furey,	Kolber,	Oliver,	Tkachuk.
	Kroft,		Wiebe.

*Original Members as nominated by the Committee of Selection*

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\*Lynch-Staunton (or Kinsella), Meighen, Oliver, Poulin, Setlakwe, Tkachuk, Wiebe.

*Original Members as nominated by the Committee of Selection*  
*Banks, Buchanan, \*Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty,*  
*Kelleher, Kenny, \*Lynch-Staunton (or Kinsella), Sibbesson, Spivak, Taylor, Watt.*

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Adams,  
 Callbeck,  
 \*Carstairs  
 (or Robichaud),

Comeau,  
 Cook,  
 Hubley,  
 Johnson,

**Deputy Chair: Honourable Senator Cook**

\*Lynch-Staunton  
 (or Kinsella),  
 Mahovlich,  
 Meighen,  
 Moore,  
 Robertson,  
 Watt.

*Original Members as nominated by the Committee of Selection*

Adams, Callbeck, \*Carstairs (or Robichaud), Carney, Chalifoux, Comeau, Cook,  
 \*Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Molgat, Moore, Robertson, Watt.

## FOREIGN AFFAIRS

**Chair: Honourable Senator Stollery****Honourable Senators:**

Andreychuk,  
 Austin,  
 Bolduc,  
 Carney,

\*Carstairs  
 (or Robichaud),  
 Corbin,  
 De Bané,

**Deputy Chair: Honourable Senator Andreychuk**

Di Nino,  
 Grafstein,  
 Graham,  
 Losier-Cool,  
 \*Lynch-Staunton  
 (or Kinsella),  
 Setlakwe,  
 Stollery.

*Original Members as nominated by the Committee of Selection*

Andreychuk, Austin, Bolduc, Carney, \*Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein,  
 Graham, Losier-Cool, \*Lynch-Staunton (or Kinsella), Poulin, Stollery.

## HUMAN RIGHTS

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Andreychuk,  
 Beaudoin,  
 \*Carstairs  
 (or Robichaud),

Cochrane,  
 Ferretti Barth,  
 Finestone,

**Deputy Chair: Honourable Senator Finestone**

Kinsella,  
 \*Lynch-Staunton  
 (or Kinsella),  
 Poy,  
 Watt,  
 Wilson.

*Original Members as nominated by the Committee of Selection*

Andreychuk, Beaudoin, \*Carstairs (or Robichaud), Ferretti Barth, Finestone,  
 Kinsella, \*Lynch-Staunton (or Kinsella), Oliver, Poy, Watt, Wilson.



## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

**Chair: Honourable Senator Kroft**  
**Honourable Senators:**

**Deputy Chair: Honourable Senator**

Atkins,	De Bané,	Kenny,	Milne,
Austin,	Doody,	Kroft,	Murray,
*Carstairs (or Robichaud),	Forrestall,	*Lynch-Staunton (or Kinsella),	Poulin,
Comeau,	Furey,	Maheu,	Stollery.
	Gauthier,		

*Original Members as nominated by the Committee of Selection*

*Austin, \*Carstairs (or Robichaud), Comeau, De Bané, DeWare, Doody, Forrestall, Furey, Gauthier, Kenny, Kroft, \*Lynch-Staunton (or Kinsella), Maheu, Milne, Murray, Poulin, Stollery.*

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## LEGAL AND CONSTITUTIONAL AFFAIRS

**Chair: Honourable Senator Milne**  
**Honourable Senators:**

**Deputy Chair: Honourable Senator Beaudoin**

Andreychuk,	*Carstairs (or Robichaud),	Grafstein,	Moore,
Beaudoin,		Joyal,	Nolin,
Buchanan,	Cools,	*Lynch-Staunton (or Kinsella),	Pearson,
	Fraser,		Rivest.
		Milne,	

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Atkins, Beaudoin, Buchanan, \*Carstairs (or Robichaud), Cools, Fraser, Grafstein, Joyal, \*Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson.*

---

## LIBRARY OF PARLIAMENT (Joint)

**Chair: Honourable Senator Bryden**  
**Honourable Senators:**

**Deputy Chair:**

Beaudoin,	Cordy,	Oliver,	Poy.
Bryden,			

*Original Members agreed to by Motion of the Senate*

*Beaudoin, Bryden, Cordy, Oliver, Poy.*

---

## NATIONAL FINANCE

**Chair: Honourable Senator Murray****Honourable Senators:**

Banks,	Comeau,
Bolduc,	Cools,
*Carstairs (or Robichaud),	Doody,
	Ferretti Barth,

**Deputy Chair: Honourable Senator Finnerty**

Finnerty,	Murray,
*Lynch-Staunton (or Kinsella),	Stratton,
Mahovlich,	Tunney,

*Original Members as nominated by the Committee of Selection*

*Banks, Bolduc, \*Carstairs (or Robichaud), Cools, Doody, Finnerty, Ferretti Barth, Hervieux-Payette, Kinsella, Kirby, \*Lynch-Staunton (or Kinsella), Mahovlich, Murray, Stratton.*

## OFFICIAL LANGUAGES (Joint)

**Chair: Honourable Senator Maheu****Honourable Senators:**

Beaudoin,	Gauthier,
Fraser,	LaPierre,

**Deputy Chair:**

Maheu,	Setlatkwe,
Rivest,	

*Original Members agreed to by Motion of the Senate*

*Bacon, Beaudoin, Fraser, Gauthier, Losier-Cool, Maheu, Rivest, Setlatkwe, Simard.*

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

**Chair: Honourable Senator Austin****Honourable Senators:**

Andreychuk,	Di Nino,
Austin,	Gauthier,
Bryden,	Grafstein,
*Carstairs (or Robichaud),	Joyal,

**Deputy Chair: Honourable Senator Stratton**

Kroft,	Pitfield,
Losier-Cool,	Poulin,
*Lynch-Staunton (or Kinsella),	Robertson,
Murray,	Rossiter,
	Stratton,

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Austin, Bryden, \*Carstairs (or Robichaud), DeWare, Di Nino, Gauthier, Grafstein, Hervieux-Payette, Joyal, Kroft, Losier-Cool, \*Lynch-Staunton (or Kinsella), Murray, Poulin, Rossiter, Stratton.*

### SCRUTINY OF REGULATIONS (Joint)

**Chair: Honourable Senator Hervieux-Payette**

**Deputy Chair:**

**Honourable Senators:**

Bryden,

Finestone,

Kinsella,

Nolin.

Hervieux-Payette,

Moore,

*Original Members agreed to by Motion of the Senate*

*Bacon, Bryden, Finestone, Hervieux-Payette, Kinsella, Moore, Nolin.*

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### SELECTION

**Chair: Honourable Senator Rompkey**

**Deputy Chair: Senator Stratton**

**Honourable Senators:**

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Corbin,

Kinsella,

Robertson,

\*Carstairs

Fairbairn,

LeBreton,

Rompkey,

(or Robichaud),

Graham,

\*Lynch-Staunton  
(or Kinsella),

Stratton.

*Original Members agreed to by Motion of the Senate*

*Austin, \*Carstairs (or Robichaud), Corbin, DeWare, Fairbairn, Graham, Kinsella  
LeBreton, \*Lynch-Staunton (or Kinsella), Mercier, Murray.*

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**Deputy Chair: Honourable Senator LeBreton**

**Honourable Senators:**

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Cordy,

Kirby,

Morin,

\*Carstairs

Di Nino,

LeBreton,

Pépin,

(or Robichaud),

Fairbairn,

\*Lynch-Staunton  
(or Kinsella),

Roberston,

Cook,

Keon,

Roche.

*Original Members as nominated by the Committee of Selection*

*Callbeck, \*Carstairs (or Robichaud), Cohen, Cook, Cordy, Fairbairn, Graham, Johnson,  
Kirby, LeBreton, \*Lynch-Staunton (or Kinsella), Pépin, Robertson, Roche.*

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**ON THE PRESERVATION AND  
PROMOTION OF A SENSE OF CANADIAN COMMUNITY**

**(Subcommittee of Social Affairs, Science and Technology)**

**Chair: Honourable Senator  
Honourable Senators:**

\*Carstairs  
(or Robichaud),

Cook,  
Cordy,

**Deputy Chair: Honourable Senator**

Kirby,  
LeBreton,

\*Lynch-Staunton  
(or Kinsella),  
Roberston.

**TRANSPORT AND COMMUNICATIONS**

**Chair: Honourable Senator Bacon  
Honourable Senators:**

Adams,  
Bacon,  
\*Carstairs  
(or Robichaud),

Eyton,  
Finestone,  
Fitzpatrick,  
Gill,

**Deputy Chair: Honourable Senator Oliver**

Gustafson,  
LaPierre,  
\*Lynch-Staunton  
(or Kinsella),  
Morin.

Oliver,  
Poy,  
Spivak,  
Taylor.

*Original Members as nominated by the Committee of Selection*

*Adams, Angus, Bacon, Callbeck, \*Carstairs (or Robichaud), Christensen, Eyton, Finestone,  
Fitzpatrick, Forrestall, \*Lynch-Staunton (or Kinsella), Rompkey, Setlakwe, Spivak.*

**THE SPECIAL SENATE COMMITTEE ON ILLEGAL DRUGS**

**Chair: Honourable Senator Nolin  
Honourable Senators:**

\*Carstairs  
(or Robichaud),

Kenny,

**Deputy Chair: Honourable Senator Kenny**

\*Lynch-Staunton  
(or Kinsella),  
Maheu.

Nolin,  
Rossiter.

*Original Members as agreed to by Motion of the Senate*

*Banks, \*Carstairs (or Robichaud), Kenny, \*Lynch-Staunton (or Kinsella), Maheu, Nolin, Rossiter.*

# CONTENTS

Tuesday, October 2, 2001

	PAGE		PAGE
<b>SENATORS' STATEMENTS</b>		Senator Andreychuk .....	1340
<b>Question of Privilege</b>		Senator Bolduc .....	1341
Notice, Senator Cools .....	1335	<b>Prime Minister's Office</b>	
<b>International Year of Volunteers</b>		Response to Terrorist Attacks on United States—	
Senator Ferretti Barth .....	1335	Status of Canada, Senator Forrestall .....	1341
<b>The Late Carol Anne Letheren</b>		Senator Carstairs .....	1341
Senator Eyton .....	1335	Senator Tkachuk .....	1342
<b>Mothers Against Drunk Driving</b>		<b>Foreign Affairs</b>	
Senator LeBreton .....	1336	Terrorist Attacks on United States—Effect on People of	
<b>Response of Government to Terrorist Attacks on United States</b>		Afghanistan—Parliamentary Approval of Increase in Aid.	
Senator Tkachuk .....	1337	Senator Oliver .....	1342
		Senator Carstairs .....	1342
<b>ROUTINE PROCEEDINGS</b>		<b>Delayed Answer to Oral Question</b>	
<b>Citizenship and Immigration</b>		Senator Robichaud .....	1343
Letter from Minister Tabled, Senator Carstairs .....	1337	<b>Citizenship and Immigration</b>	
<b>Official Languages</b>		Special Visa Privileges for Members of Parliament and Senators.	
Second Report of Joint Committee—		Question by Senator Kinsella.	
Government Response Tabled, Senator Robichaud .....	1337	Senator Robichaud (Delayed Answer) .....	1343
<b>Adjournment</b>		<b>Responses to Order Paper Questions Tabled</b>	
Senator Robichaud .....	1337	Attorney General—Brian Mulroney Case.	
<b>Business of the Senate</b>		Senator Robichaud .....	1343
Royal Assent Bill—Motion to Withdraw Adopted.		Criminal Code—Status of Official Languages.	
Senator Carstairs .....	1337	Senator Robichaud .....	1343
Senator Lynch-Staunton .....	1337	<b>Library of Parliament</b>	
<b>Royal Assent Bill (Bill S-34)</b>		<b>Official Languages</b>	
First Reading, Senator Carstairs .....	1338	<b>Scrutiny of Regulations</b>	
<b>Access to Census Reports</b>		Membership of Joint Committees—	
Petition, Senator Milne .....	1338	Message from Commons, The Hon. the Speaker .....	1343
		<b>Question of Privilege</b>	
		Comments by Minister of Citizenship and Immigration—	
		Speaker's Ruling, The Hon. the Speaker .....	1344
<b>QUESTION PERIOD</b>		<b>ORDERS OF THE DAY</b>	
<b>The Senate</b>		<b>Carriage By Air Act (Bill S-33)</b>	
Haste of Hearings of Social Affairs, Science and Technology		Bill to Amend—Second Reading—Debate Adjourned.	
Committee on Immigration and Refugee Protection Bill.		Senator Fitzpatrick .....	1346
Senator Lynch-Staunton .....	1338	<b>Official Languages Act (Bill S-32)</b>	
Senator Carstairs .....	1338	Bill to Amend—Second Reading—Debate Adjourned.	
Possibility of Referring Immigration and Refugee Protection Bill		Senator Gauthier .....	1347
to Legal and Constitutional Affairs Committee.		Senator Finestone .....	1349
Senator Lynch-Staunton .....	1339	Senator Murray .....	1349
Senator Carstairs .....	1339	Senator Robichaud .....	1350
Senator Beaudoin .....	1339	Senator Lapointe .....	1350
		Senator Fraser .....	1350
		Senator Corbin .....	1351

**Defence and Security**

Budget—Report of Committee—Debate Adjourned.	
Senator Kenny .....	1351
Senator Robichaud .....	1353
Senator Murray .....	1354
Senator Banks .....	1356
Senator Carney .....	1357
Senator Bolduc .....	1357
Senator Murray .....	1357
Senator LaPierre .....	1357
Senator Wiebe .....	1357

**Transport and Communications**

Motion to Authorizing Committee to Study	
Measures to Encourage French-Language Broadcasting—	
Debate Continued. Senator Losier-Cool .....	1358

**The National Anthem**

Inquiry—Debate Continued. Senator Spivak .....	1359
--	------

**Cable Public Affairs Channel**

Closed-Captioning Service—Inquiry—Debate Continued.	
Senator Kroft .....	1360

**Question of Privilege**

Senator Cools .....	1360
---------------------	------

**Intellectual Property Rights Over Patented Medicines**

Inquiry —Debate Adjourned. Senator Finestone .....	1361
--	------

Appendix .....	i
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